

40.240 COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS

ARTICLE I. ADMINISTRATION

40.240.010 Purpose and Authority

The purpose of these regulations is to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge. These regulations are intended to be consistent with and implement the Management Plan for the Columbia River Gorge National Scenic Area (CRGSNA) adopted and amended by the Columbia River Gorge Commission. These regulations shall only apply to lands within the Clark County area within the National Scenic Area. If the provisions of this chapter differ from state law then the provisions of this chapter shall prevail. If conflicts occur between Chapter 40.240 and other Title 40 provisions, Chapter 40.240 shall prevail as to lands within the National Scenic Area, except when conflicts arise between buffer and/or riparian zone width requirements in Chapter 40.240 and Chapters 40.440 and 40.450, the broadest buffer and/or riparian zone width shall be required. The provisions of Chapter 40.240 shall provide the minimum protection of natural resources. Additional requirements providing greater levels of natural resources protection, pursuant to provisions of Chapters 40.440 and 40.450, shall be imposed.

A. Area Affected.

1. Chapter 40.240 shall:

- a. Apply to all lands in Clark County, Washington within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act as may be amended;
- b. Apply to all unincorporated lands within the National Scenic Area; and
- c. Be applied by Clark County to the National Scenic Area within incorporated lands where authorized by state or federal law. Administration and enforcement of these incorporated areas may be subject to interlocal agreement between Clark County and the city of Washougal.

2. Those portions of Chapter 40.240 and any amendments thereto pertaining to the General Management Area (GMA) become effective once the Columbia River Gorge Commission finds it consistent with the Management Plan for the CRGNSA. Those portions of Chapter 40.240 and any amendments thereto pertaining to the Special Management Area (SMA) become effective when the Secretary of Agriculture concurs on the ordinances adopted by Clark County.

B. Review and Approval Required.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Clark County portion of the Columbia River Gorge National Scenic Area except for the uses listed in this chapter, when considered under the applicable procedural and substantive guidelines of this chapter.

C. Uniform Application of Management Plan.

1. The Management Plan shall be applied consistent with and in the spirit of the National Scenic Area Act.
2. The Gorge Commission, Forest Service, and counties should strive to apply Management Plan provisions uniformly throughout the National Scenic Area, except when a county has adopted a more restrictive provision.
3. In applying provisions of the Management Plan, the Gorge Commission and Forest Service may consider, but shall not be constrained by, county interpretations, state interpretation and application of state law and administrative regulations, or judicial decisions that do not directly involve the Management Plan.

4. In reviewing and revising the Management Plan in 2020, the Gorge Commission and Forest Service used Webster's Third New International Dictionary, unabridged (2002) for undefined terms. When interpreting

the Management Plan and land use ordinances implementing the Management Plan, the Gorge Commission will use Webster's Third New International Dictionary, unabridged (2002) for undefined terms. For terms that do not appear in this dictionary, the Gorge Commission will first consider the online (free) version of Merriam-Webster unabridged (currently at <https://unabridged.merriam-webster.com/>). For terms that do not appear in the online (free) version, the Gorge Commission will consider other available dictionaries.

(Amended: Ord. 2006-05-04; Ord. 2006-08-21)

40.240.020 Comprehensive Plan and Zoning Designations

A. All lands within the Clark County area lying within the Columbia River Gorge National Scenic Area shall carry a zoning map designation, and identical Comprehensive Plan map designation of one (1) of the following categories, as delineated on the adopted Clark County Columbia River Gorge National Scenic Area Zoning and Comprehensive Plan maps:

1. General Management Area (GMA):

- a. Gorge Large-Scale Agriculture 80 (GLSA-80);
- b. Gorge Large-Scale Agriculture 40 (GLSA-40);
- c. Gorge Small-Scale Agriculture 20 (GSSA-20);
- d. Gorge Small Woodland 20 (GSW-20);
- e. Gorge Small Woodland 40 (GSW-40);
- f. Gorge Open Space (GOS);
- g. Gorge Residential 5 (GR-5);
- h. Gorge Residential 10 (GR-10); or
- i. Gorge Public Recreation (GPR).

2. Special Management Area (SMA):

- a. Gorge SMA Agriculture (GSAG);
- b. Gorge SMA Forest (GSFF); or
- c. Gorge SMA Open Space (GSOS).

B. In addition, Columbia River Gorge National Scenic Area Management Plan maps for landscape settings and recreation intensity classes shall be used for limited regulatory purposes where referred to in this chapter. All maps listed shall be made available at the offices of the Clark County Community Development Department in Vancouver, Washington, and the Columbia River Gorge Commission in White Salmon, Washington.

(Amended: Ord. 2006-05-04)

40.240.030 Amendments to This Section

Clark County may initiate and complete changes to this chapter or associated map designations as follows, to be reviewed under procedures specified under Chapter 40.500:

A. Scrivener errors, spelling and numbering corrections may be undertaken administratively by county staff.

B. Minor textual alterations may be undertaken by Clark County through a Type IV legislative action under Section 40.510.040 upon a finding that such changes are consistent with the CRGNSA General Management Plan. Such alterations shall require subsequent approval by the Columbia River Gorge Commission, and the U.S. Secretary of Agriculture for alterations in the SMA, before taking effect.

C. Minor and major textual and map alterations may be undertaken by Clark County through a Type IV legislative action under Section 40.510.040 in response to changes in the CRGNSA General Management Plan and/or other actions by the Columbia River Gorge Commission authorizing such alterations.

D. Individuals seeking major textual and map changes requiring a change to the General Management Plan are encouraged to contact the Columbia River Gorge Commission to complete such changes before seeking corresponding changes within this chapter. Any changes to the zoning maps designations shall require corresponding changes to the Comprehensive Plan map, and shall be considered major changes.

(Amended: Ord. 2006-05-04)

40.240.040 Definitions

As used in this chapter, unless otherwise noted, the following words and their derivations shall have the following meanings. The definitions do not apply to areas of Clark County outside of the Columbia River Gorge National Scenic Area.

Accepted agricultural practice	A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use. (Amended: Ord. 2018-03-04)
<u>Accessible</u>	<u>In compliance with the Federal accessibility guidelines and standards. Accessible sites and facilities do not contain barriers limiting their use by people with disabilities.</u>
<u>Accessory renewable energy system</u>	<u>A system accessory to a primary structure or allowed use on the parcel that converts energy into a usable form such as electricity or heat and conveys that energy to the allowed structure or use. An Accessory Renewable Energy System is a solar thermal, photovoltaic, or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the primary use on the subject parcel.</u>
Accessory structure/building	A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building. (Amended: Ord. 2018-03-04)
Active wildlife site	A wildlife site that has been used within the past five (5) years by a sensitive wildlife species. (Amended: Ord. 2018-03-04)
Addition	An extension or increase in the area or height of an existing building. (Amended: Ord. 2018-03-04)
Adversely affect or adversely affecting	A reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on: <ol style="list-style-type: none"> 1. The context of a proposed action; 2. The intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence; 3. The relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and 4. Proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level. (Added: Ord. 2018-03-04)
Agency official	The federal, state, or local agency head or designee who has authority over a proposed project. (Amended: Ord. 2018-03-04)
<u>Agricultural building</u>	<u>A building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, and processing facilities.</u>
Agricultural specialist (SMA)	A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

	(Amended: Ord. 2018-03-04)
Agricultural structure building	A structure (not including buildings) or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock . These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins <u>fences, trellises, and irrigation systems and structures</u> . (Amended: Ord. 2018-03-04)
Agricultural use	The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, furbearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes: <ol style="list-style-type: none"> <u>1.</u> — The operation or use of farmland subject to any agriculture-related government program. <u>2.</u> — Land lying fallow for one (1) year as a normal and regular requirement of good agricultural husbandry. <u>3.</u> — Land planted in orchards or other perennials prior to maturity. <u>4.</u> — Land under buildings supporting accepted agricultural practices. <p>Agricultural use does not include livestock feedlots.</p> (Amended: Ord. 2006-08-21; Ord. 2018-03-04)
Air	The mixture of gases comprising the earth's atmosphere. (Added: Ord. 2018-03-04)
Anadromous fish	Species of fish that migrate upstream to freshwater after spending part of their life in the ocean saltwater. (Amended: Ord. 2018-03-04)
Anaerobic	A condition in which molecular oxygen is absent (or effectively so) from the environment. (Amended: Ord. 2018-03-04)
Animal unit	An animal unit consists of one (1) adult horse, or two (2) ponies, or five (5) miniature horses. (Amended: Ord. 2009-03-02; Ord. 2018-03-04)
Aquaculture	The cultivation, maintenance, and harvesting of aquatic species.
Aquatic area	The water area of a stream, pond, or lake measured at the ordinary high water mark.
Archaeological resources	See "Cultural resource."
Archival research	Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.
<u>Background</u>	<u>One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Background is represented in the space from four miles to the horizon.</u>
Bed and breakfast inn	An establishment located in a structure designed as a single-family dwelling where more than two (2) rooms but fewer than six (6) rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as <u>traveler transient</u> accommodations, not as rooming or boarding houses.
Best M anagement P actices <u>(BMPs)</u>	Conservation techniques and management measures that: <ol style="list-style-type: none"> <u>1.</u> — Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; <u>2.</u> — Minimize adverse effects to groundwater and surface-water flow and circulation patterns; and <u>3.</u> — Maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.
Biodiversity (SMA)	A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.
Boat landing	A cleared area or developed structure used to facilitate launching or retrieving watercraft.

Buffer zone	An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.
Building	Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.
Camping or recreational vehicle	A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit and subject to review for consistency with this chapter if it is (1) connected to a sewer system (including septic tank), water, and electrical lines or (2) is occupied on the same parcel for more than sixty (60) days in any consecutive twelve (12) month period.
Campsite	Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.
Canopy closure (SMA)	For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.
Capability	The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.
Cascadian architecture (SMA)	Architectural style using native rockwork, large timber, and steeply pitched roofs in a rustic manner.
Catastrophic situations (SMA)	Forces such as fire, insect and disease infestations, and earth movements.
Childcare center	A facility providing day care to three (3) or more children, but not including: <ol style="list-style-type: none"> 1. — The provision of care that is primarily educational, unless provided to a preschool child for more than four (4) hours a day. 2. — The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion. 3. — The provision of short-term care related to or associated with group athletic or social activities. 4. • The provision of day care in the provider's home in the family living quarters for less than thirteen (13) children.
Columbia River Gorge National Scenic Area Graphic Signing System	Sign design standards developed for the <u>National</u> Scenic Area for public signs in and adjacent to public road rights-of-way.
<u>Columbia River treaty tribes</u>	<u>See definition for Indian tribes.</u>
Commercial development <u>or</u> use	Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit and produce stands.
<u>Commercial event</u>	<u>An organized gathering at an allowed commercial development. Such events include weddings, receptions, indoor concerts, and farm dinners, and are incidental and subordinate to the primary use on a parcel.</u>
Commercial forest products	Forest products including timber for lumber, pulp, and firewood for commercial purposes.
Commercial recreation	Any private (nongovernmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.
Community facility	Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.
Consulting parties (cultural resources)	Organizations or individuals who submit substantive written comments to the Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.
Contiguous land	Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.
Counties	The six (6) counties within the <u>National</u> Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.
Created opening (SMA)	A created forest opening with less than forty percent (40%) average canopy closure of overstory trees and less than sixty percent (60%) average canopy closure of understory trees averaging less than five (5) inches diameter at breast height for coniferous forests and less than twenty-five percent (25%) total canopy cover for oak woodlands. This definition does not include agricultural fields.

Creation (wetlands)	A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (one hundred (100) to two hundred (200) years).
Cultivation	Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.
Cultural resource	<p>Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following: The objects, features, sites and places that have meaning and significance for specific human groups and cultures. Cultural resources support the cohesive bonds of the communities that recognize and comprehend their significance. Cultural resources can be divided into four types: Archaeological Resources, Historic Buildings, Traditional Cultural Properties and Traditional Use Areas.</p> <ol style="list-style-type: none"> 1. —Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least fifty (50) years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs, and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts. The artifacts and features left in the landscape of early American Indian activities and the historic activities of early settlers. Artifacts are human-manufactured items and the waste material from manufacture. Features are the human alterations in the landscape. Artifacts include arrowheads and the stone waste flakes from making them and historic cans, bottles, ceramics and wooden and metal objects left in dumps or scattered in the landscape. Features include human-made pits in talus slopes, stacked rocks, rock walls, blazed and scarred trees, ditches, railroad grades, wagon roads, cabin foundations and other human modifications of the natural landscape. 2. —Historic buildings and structures. Standing or aboveground buildings and structures that are at least fifty (50) years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels. Standing structures and their associated features. Often, they are still in use but can be abandoned and deteriorating. They are distinct from historic archaeological resources by being above ground and not collapsed to the level of the surrounding landscape. 3. —Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history, a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity, and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops. Monumental sites, sacred places, legendary areas, mythical locations, traditional gathering areas, and landscapes and landscape features that are identified by the specific communities that hold meaning for them. They maintain and perpetuate values and practices of the group that attach significance to them. They provide spiritual cohesion to the community. 4. Traditional Use Areas: Procurement and processing sites in the landscape for every kind of resource a society needs to perpetuate its specific culture. They are the sources for food, medicine, fibers and tools that provide subsistence for a specific group's culture.
<u>Culturally significant foods</u>	<u>Natural resources used by Native Americans for subsistence, medicine and ceremony, including: water, fish, big game, roots, and berries.</u>
<u>Culturally significant plants and wildlife</u>	<u>Native plant and animal species essential to the culture of a Native American group.</u>
Cumulative effects	The combined effects of two (2) or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.
Cut	An area where soil or earth is excavated or removed in conjunction with development activities.
Days	Calendar days, including weekends and holidays.
Days, working	Days during which Clark County Community Development Department offices are open to the public, excluding weekends and holidays.
Dedicated site	An area actively devoted to the current use and as delineated on the site plan.
Deer and elk winter range	Areas normally used, or capable of being used, by deer and elk from December through April.

Destruction of wetlands	Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.
Developed recreation	Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.
Developed road prism (SMA)	The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.
Development	Any land division or structure, including but not limited to new construction or modification of buildings, and structures and roads , and any earth-moving activity, including, but not limited to, mining, dredging, filling, grading, paving, and excavation.
Diameter at breast height (dbh)	The diameter of a tree as measured at breast height.
<u>Distance zone</u>	<u>Distance zones (see Background, Middleground, and Foreground) are used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Generally, the closer a development is to the area it is being viewed from, the more attention will need to be given to site placement, design features, and mitigations to ensure the development blends with the landscape.</u>
Duplex	A building containing two (2) dwelling units and designed for occupancy by two (2) families.
Dwelling, single family	A detached building containing one (1) dwelling unit and designed for occupancy by one (1) family only.
Dwelling unit	A single self-contained unit designed for occupancy by one (1) family and having not more than one (1) cooking with basic facility needs for day-to-day living. Facility needs include, but are not limited to, a food preparation area or kitchen, <u>bedrooms, and a full bathroom.</u>
Earth materials	Any rock, natural soil or any combination thereof. Earth materials do not include nonearth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).
Effect on treaty rights	To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the federal courts.
Emergency/disaster	A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.
Emergency/disaster response	Actions involving any development or vegetation removal that must be taken immediately in response to an emergency/disaster event. Emergency/disaster response actions that do not involve any structural development or ground-disturbance activities are not included in this definition.
Endemic	Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.
Enhancement (natural and scenic resources)	<u>A human activity that increases or makes greater the value, desirability or attractiveness of one or more functions of an existing sensitive area. For riparian areas, such as wetlands, streams, and lakes, enhancement is generally limited to the area that is degraded. Enhancing a sensitive natural resource area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable. A human activity that increases one (1) or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.</u>
Ephemeral streams (EMA)	Streams that contain flowing water only during, and for a short duration after, precipitation events.
Ethnography	The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.
<u>Equitable recreation</u>	<u>Development and services that are equally accessible and available to all people regardless of income level, ethnicity, gender, ability, or age.</u>
Existing use or structure	Any use or structure that was legally established <u>and that has continued to operate lawfully and has not been discontinued.</u> "Legally established" means: 1. <u>—</u> The landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure;

	<p>2. ← The use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and</p> <p>3. • Any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.</p>
Exploration, development (extraction and excavation), and production of mineral resources	All or any part of the process of surface, underground, or submerged mining of mineral resources, <u>and transportation of mineral resources from the site</u> . Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For <u>Section 40.240 the Management Plan</u> , this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, on-site stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource <u>and to transport to another site for use or further processing</u> . Secondary processing such as concrete or asphalt batch plants is considered industrial uses.
Fill	The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.
Finished grade	The final elevation of the ground level of a property after construction is completed.
Fire break	A break in groundcover fuels, adjacent to and surrounding buildings.
Footprint	The area that falls directly beneath and shares the same perimeter as a structure.
Forbs	Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grass-like plants.
Foreground (SMA)	<u>One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Foreground is represented in the space from zero (the viewer) up to One-half (1/2) mile on either side of a traveled road or trail.</u>
Forest health (SMA)	A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.
Forest practice (SMA)	Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of twelve (12) years or less are considered agricultural uses.
Forest practices (GMA)	Those activities related to the growing and harvesting of forest tree species, as defined by the Washington Forest Practices Act.
Forest products	Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.
<u>Forest Service</u>	<u>The United States Department of Agriculture Forest Service – National Scenic Area Office.</u>
Forest stand structure (SMA)	The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.
Forest use	The growing, propagation, and harvesting of forest tree species and other forest products.
<u>Fruit and produce stand</u>	<u>A venue on a farm or ranch selling produce and agricultural products primarily grown on the subject farm or ranch. Associated incidental agricultural products from the local region and associated incidental marketing materials shall not make up more than 25% of the sales at the stand. Incidental products may include processed foods like jams and jellies. Foods prepared for consumption on the premises are not permitted. Fruit and produce stands are not a commercial use.</u>
Fully screened	A description <u>used when determining compliance with the scenic standards (visually subordinate and not visually evident), where of the relative visibility of a structure, development or use where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). See Scenic Resources Implementation Handbook for more information regarding screening for development in the National Scenic Area.</u>
<u>Gorge Commission</u>	<u>The Columbia River Gorge Commission.</u>
Grade (ground level)	The average elevation of the finished ground elevation as defined by the International Building Code.

Grading	Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
Hazard tree (SMA)	A tree with a structural defect that will predictably result in whole or partial failure within one-and-one-half (1.5) tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.
Height of building	The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.
Herbaceous	A plant with no persistent woody stem above the ground, with characteristics of an herb.
Herbs	Nonwoody (herbaceous) plants, including grasses and grass-like plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than three (3) feet tall shall be considered part of the herbaceous layer.)
Historic buildings and structures	See "Cultural resource."
Historic survey	Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.
Home occupation	<u>A small-scale commercial use conducted in a legal single-family dwelling or accessory structure, employing the residents of the dwelling and up to three outside employees. Periodic use of home offices, studios, and other work areas used only by the residents of the dwelling are not a home occupation. Small-scale professional or vocational activities conducted on noncommercial properties in a manner which does not detract from residential or resource characteristics of the surrounding area. Under this chapter, home occupations shall be consistent in definition and usage with the Scenic Area Management Plan provisions for cottage industries and home occupations.</u>
Horses, boarding of (GMA)	The stabling, feeding, pasturing and grooming, or the use of stalls and related facilities, such as training arenas, corrals, and exercise tracks, for the care of horses not belonging to the owner of the property. These facilities are either operated for a fee or by a nonprofit organization. (Amended: Ord. 2009-03-02)
Hydric soil	A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
<u>Immediate Foreground for scenic corridors</u>	<u>A subset of one of the three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Immediate foreground is represented in the space from zero (the viewer) up to one-quarter mile. For scenic travel corridors in the GMA, immediate foreground also includes lands within one-quarter mile of the edge of pavement. In the SMAs, immediate foreground includes the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs (such as Crown Point or Multnomah Falls).</u>
In-lieu <u>or treaty fishing access</u> sites	Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 79-14 and Public Law 100-581, 401. Additional in-lieu <u>or treaty fishing access</u> sites will be provided for.
Indian Tribal government	The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).
Indian tribes	The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon , and the Confederated Tribes of the Umatilla Indian Reservation.
Industrial uses	Any use of land or water primarily involved in: <ol style="list-style-type: none"> <u>1.</u> Assembly or manufacture of goods or products; <u>2.</u> Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit; <u>3.</u> Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service; or <u>4.</u> • Production of electric power for commercial purposes.
Interpretive displays	Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

Key components	The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.
Key viewing areas	<p>Those portions of <u>identified</u> important public roads, parks, or other vantage points within the <u>National Scenic Area</u> from which the public views <u>National Scenic Area</u> landscapes. <u>Such portions include gathering points, rest areas, roads and trails that provide primary access to the area, parking lots, and associated recreation areas.</u> <u>Identified areas</u> These include:</p> <ol style="list-style-type: none"> 1. Historic Columbia River Highway <u>(including the Historic Columbia River Highway State Trail);</u> 2. Crown Point; 3. Highway I-84, including rest stops; 4. Multnomah Falls; 5. Washington State Route 14; 6. Beacon Rock; 7. Panorama Point Park; 8. Cape Horn; 9. Dog Mountain Trail; 10. Cook-Underwood Road; 11. Rowena Plateau and Nature Conservancy Viewpoint; 12. Portland Women's Forum State Park; 13. Bridal Veil State Park; 14. Larch Mountain <u>(including Sherrard Point);</u> 15. Rooster Rock State Park; 16. Bonneville Dam Visitor Centers; 17. Columbia River; 18. Washington State Route 141; 19. Washington State Route 142; 20. Oregon Highway 35; 21. Sandy River; and 22. Pacific Crest Trail. <p><u>For projects located in the SMAs only:</u></p> <ol style="list-style-type: none"> 1. Old Highway 8 (previously known as Old Washington State Route 14 and County Road 1230); 2. Wyeth Bench Road <u>(also known as Wyeth Road);</u> 3. Larch Mountain Road, and Sherrard Point on Larch Mountain.
Land division	The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.
Landscape setting	The combination of land use, <u>and cultural features,</u> landform <u>pattern and features,</u> and <u>vegetation patterns,</u> <u>and waterform</u> that distinguish an area in appearance and character from other portions of the <u>National Scenic Area.</u>
Livestock feedlot	Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and furbearers. Feedlots do not include winter pasture or winter hay-feeding grounds.
Lot line adjustment	Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels. (Amended: Ord. 2006-08-21)
Maintenance	Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure. Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.
Management Plan	The document entitled "Management Plan for the Columbia River Gorge National Scenic Area" adopted October 14, 1991, <u>as amended through October 2020 and updated April 9, 2004.</u> The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for the Special Management Area.
<u>Managerial Setting</u>	<u>The on-site controls (signs, regulations, or other regimentation) and types of facilities recreationists could expect when visiting recreation sites.</u>

<u>Middleground</u>	<u>One of three main visibility distance zones used to determine relative sensitivity of a development, structure, or use based on its distance from the viewer. Middleground is represented in the space between the foreground and the background. The area located from one-half mile up to four miles from the viewer.</u>
Mitigation	The use of any or all of the following actions, <u>in the following order of priority</u> : <ol style="list-style-type: none"> <u>1. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;</u> <u>2. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; or</u> <u>3. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.</u> <u>4. Offsetting impacts by creating or enhancing affected resources.</u> <u>5. Monitoring the result of mitigation actions and taking appropriate corrective actions.</u>
Mosaic (SMA)	The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.
Multifamily dwelling	A dwelling constructed or modified into two (2) or more single family dwelling units.
<u>National Scenic Area</u>	<u>The Columbia River Gorge National Scenic Area.</u>
Native species	Species that naturally inhabit an area.
Natural grade	The undisturbed elevation of the ground level of a property before any excavation or construction operations.
Natural resource specialist	A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.
Natural resource-based recreation (SMA)	Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the <u>National</u> Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.
Natural resources	Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.
Nonprofit organization	An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.
Not visually evident (SMA)	<u>One of the two scenic standards applicable within the National Scenic Area. A visual quality standard description of the relative visibility of a development, structure or use that provides for developments, structures or uses that are not visually noticeable to the casual visitor and the defining landscape setting characteristics appear intact. Developments or uses shall only Deviations may be present but must repeat form, line, color, and texture and pattern common to the natural landscape setting so completely and at such scale, proportion, that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., that it shall not be noticeable.</u>
Old growth	A forest stand usually at least one hundred eighty (180) to two hundred twenty (220) years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.
Open spaces	Unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include: <ol style="list-style-type: none"> <u>1. Scenic, cultural, and historic areas;</u> <u>2. Fish and wildlife habitat;</u> <u>3. Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to state or federal endangered species acts;</u> <u>4. Ecologically and scientifically significant natural areas;</u> <u>5. Outstanding scenic views and sites;</u> <u>6. Water areas and wetlands;</u> <u>7. Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;</u> <u>8. Potential and existing recreation resources; and</u> <u>9. Federal and state wild, scenic, and recreation waterways.</u>
Operational (SMA)	For new agricultural use, an agricultural use shall be deemed operation operational when the improvements and investments described in the stewardship plan are in place on the parcel.
Ordinary high water mark	The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years,

	as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.
Other related major structure (SMA)	A structure related to a dwelling on a parcel in the an SMA that is less than forty (40) acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."
<u>Overnight accommodations (GMA)</u>	<u>The rental of one or more rooms located in legal single-family dwelling on a daily or weekly basis. Overnight accommodations are clearly incidental to the use of a structure as a single-family dwelling and are owner-operated.</u>
Overstory (SMA)	For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.
Parcel	<ol style="list-style-type: none"> 1. Any Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in Section 40.240.390 shall not be considered a parcel. 2. Any Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 17, 1986. 3. A A unit of land legally created and separately described by deed or sales contract after November 17, 1986, if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines. 4. A unit of land shall not be considered a separate parcel simply because the subject tract of land: <ol style="list-style-type: none"> a. Is Is a unit of land solely created to establish a separate tax account; b. Lies Lies in different counties; c. Lies Lies in different sections or government lots; d. Lies Lies in different land use or zoning designations; or e. Is Is dissected by a public or private road.
<u>Physical Settings</u>	<u>The physical quality of the landscape at a recreation site, and how rustic recreation facilities may appear. Physical setting is distinct and not to be confused with landscape settings and landscape setting character descriptions.</u>
Practicable	Able to be done, considering technology and cost.
Pre-existing	Existing prior to the adoption of the <u>first</u> Columbia River Gorge National Scenic Area Management Plan <u>on October 15, 1991</u> .
Previously disturbed	An area of land where the natural surface has been graded, excavated, paved and/or graveled.
<u>Priority Habitat</u>	<u>Areas that provide habitat for sensitive wildlife determined by Forest Service, Oregon Department of Fish & Wildlife, or Washington Department of Fish & Wildlife.</u>
Primarily	A clear majority as measured by volume, weight, or value.
<u>Public dock</u>	<u>A dock constructed, maintained and operated by a federal, state, local, or tribal government entity to provide public access to a water body.</u>
Project area	The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.
Public use facility	Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.
Rare plant species	<p><u>Various categories of plants and plant communities cited in federal and state programs. Rare plants and rare plant ecosystems are:</u></p> <ol style="list-style-type: none"> 1. <u>Endemic to the Columbia River Gorge and vicinity (see Table 40.240.870-1).</u> 2. <u>Listed as endangered or threatened pursuant to federal or state endangered species acts, or</u> 3. <u>Designated global or state status rank 1, 2, or 3 by the Oregon Biodiversity Information Center or Washington Natural Heritage Program.</u> <p><u>In the SMAs, rare plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists. Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.</u></p>
<u>Rare wildlife species</u>	<u>Wildlife species that are:</u>

	<ol style="list-style-type: none"> 1. <u>Listed as endangered or threatened pursuant to federal or state endangered species acts,</u> 2. <u>Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,</u> 3. <u>Listed as sensitive by the Oregon Fish and Wildlife Commission, or</u> 4. <u>Considered to be of special interest to wildlife management authorities and the public (great blue heron, osprey, golden eagle, peregrine falcon, and prairie falcon).</u> <p><u>In the SMAs, rare wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</u></p>
Reconnaissance survey	Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.
Recreation facility	A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than one quarter (1/4) mile of land that does not contain any such <u>recreational</u> developments or improvements, except for roads and/or pathways.
Recreation Opportunity Spectrum (ROS)	<p>A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).</p> <ol style="list-style-type: none"> 1. <u>Primitive:</u> Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified. 2. <u>Semi-primitive:</u> Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting. 3. <u>Roaded Natural:</u> Roaded areas with moderately frequent human encounters and with resource modifications evident. 4. <u>Rural:</u> Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications. 5. <u>Suburban:</u> Areas representing the rural urban interface, with urban like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape. 6. <u>Urban:</u> Highly accessible, roaded areas dominated by human encounters and human-related structures.
Recreation resources	Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.
<u>Recreation Setting</u>	<u>The tool for managing recreation development and opportunities based on the sites social, physical, and managerial setting</u>
<u>Reflective surface</u>	<u>Providing a reflection; capable of reflecting light or other radiation.</u>
Regularly maintained	<p>An area of land that has been previously disturbed and where periodic actions have been taken to:</p> <ol style="list-style-type: none"> 1. <u>Keep the area clear of vegetation (e.g., shoulders, utility yards);</u> 2. <u>Limit the height and type of vegetation (e.g., utility rights-of-way); and/or</u> 3. <u>Establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).</u>
Rehabilitation (natural resources)	A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.
Remnant old forest (SMA)	Large trees in the overstory that are well into the mature growth state (older than one hundred eighty (180) years).
Repair	Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.
Resource-based recreation	Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the <u>National</u> Scenic Area and that do not adversely affect those resources upon which they depend.
Responsible official	The director of the Community Development Department of Clark County or the director's authorized designate. The responsible official is responsible for the administration, interpretation and implementation of this chapter.
Restoration	A human activity that returns a resource from a disturbed or altered condition to a previous, less disturbed or less altered condition. This definition does not modify or eliminate the Management Plan definition of restoration applicable only to wetlands.

Restoration (wetlands)	A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.
Review uses	Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.
Riparian area	The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.
Road	The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to: <ol style="list-style-type: none"> 1. Ways described as streets, highways, throughways, or alleys. 2. Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures. 3. Structures that provide for continuity of the right-of-way, such as bridges.
Scenic Area	The Columbia River Gorge National Scenic Area.
Scenery Management System	The overall framework for the orderly inventory, analysis, and management of scenery developed in coordination with the Forest Service.
Scenic travel corridor	Those portions of Washington State Routes 14, 141, and 142 located in the <u>National</u> Scenic Area and specifically designated to be managed as scenic and recreational travel routes.
Secretary	The <u>U.S.</u> Secretary of Agriculture.
Sensitive plant species	Plant species that are: <ul style="list-style-type: none"> Endemic to the Columbia River Gorge and vicinity; Listed as endangered or threatened pursuant to federal or state endangered species acts; or Listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage Program. <p>In the Special Management Area, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</p>
Sensitive wildlife species	Animal species that are: <ul style="list-style-type: none"> Listed as endangered or threatened pursuant to federal or state endangered species acts; Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission; or Considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon. <p>In the Special Management Area, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</p>
Service station	A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
Serviceable	Presently useable.
Shall	Action is mandatory.
Should	Action is encouraged.
Shrub	A woody plant usually greater than three (3) feet but less than twenty (20) feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than three (3) feet tall shall be considered part of the herbaceous layer.)
Sign	Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to

	advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.
Significant cultural resource (SMA)	A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)
<u>Single-family Dwelling</u>	<u>A detached building containing one (1) dwelling unit and designed for occupancy by one (1) family only.</u>
Skyline	The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, <u>and is topographically visible as viewed</u> from a specified vantage point (generally a key viewing area, for the purposes of Chapter 40, 240 the Management Plan). <u>The skyline is formed where the surface of the earth meets the sky except in existing densely forested landscapes with thick, unbroken coniferous tree cover characteristic to its setting, the skyline may be formed by the top of the vegetative canopy. In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.</u>
<u>Social Settings</u>	<u>Identifies the opportunities for solitude as well as quantity and type of encounters visitors could experience when visiting a recreation site or area.</u>
Soil capability class	A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.
Special habitat area	Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.
Special streams	Streams that are primary water supplies for fish hatcheries and rearing ponds.
Stand	A group of trees possessing uniformity in regard to type, age, vigor, or size.
Story	A single floor level of a structure, as defined by the International Building Code.
Streams	Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses. For the Management Plan, streams are categorized into two (2) classes: perennial streams and intermittent s <u>or ephemeral</u> streams. "Perennial stream" means a stream that flows year-round during years of normal precipitation. "Intermittent stream" means a stream that flows only part of the year, or seasonally (<u>ephemeral</u>), during years of normal precipitation.
Structure	That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, <u>patios, driveways,</u> and additions/alterations to structures, <u>including repaving or resurfacing roads, driveways, and patios.</u>
Submit	To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or e-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.
Subsurface testing	Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.
Suitability	The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; <u>whether the land is committed to another land use that does not allow for agricultural use;</u> surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources, compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.
Thinning (SMA)	A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than forty percent (40%) and the understory layer is less than sixty percent (60%) average canopy closure of trees averaging less than five (5) inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than twenty-five percent (25%). (Amended: Ord. 2006-08-21)

<u>Topographic Visibility</u>	<u>Refers to areas that can be seen (generally from a key viewing area, for the purpose of the Management Plan) if all vegetation were to be removed.</u>
Total canopy closure (SMA)	For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.
<u>Traditional foods</u>	<u>Natural and cultural resources that Native Americans rely on for sustenance, based on history, culture and tradition.</u>
<u>Trail Characteristics</u>	<u>Tools to describe the types of trail conditions that recreationists should expect when visiting a recreation resource.</u>
Travelers accommodations	Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.
Treatment (SMA)	For forest practices, a site-specific operation that carries out the forest management objectives for an area.
Treaty rights or other rights	Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.
Tributary fish habitat	Streams that are used by anadromous or resident fish for spawning, rearing and or migration.
Understory (SMA)	For forest practices, the shorter or immature trees below the tall or mature overstory trees.
<u>Unobtrusive</u>	<u>When a structure does not intrude or visually dominate the scene of a landscape and for which the introduced forms, lines, colors, textures, and patterns mimic the native environment.</u>
Undertaking	Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)]. (Amended: Ord. 2009-03-02)
Unimproved lands	Lands that generally do not have developments such as buildings or structures.
Upland	Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and or hydrologic characteristics associated with wetlands.
Uses allowed outright	New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.
Utility facility	Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.
Vested right	The right to develop or continue to develop a use, a development, or a structure under the regulations in force at the time of when a complete pre-application or application was filed, subject to the application being approved.
Viewshed	A landscape unit seen <u>visible</u> from a key viewing area.
Visual Quality Objective (VQO)	A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.
Visually subordinate	<u>One of the two scenic standards applicable in the National Scenic Area.</u> A description of the relative visibility of a <u>development</u> , structure or use where that structure does not noticeably contrast with the <u>surrounding-defining</u> landscape <u>setting characteristics</u> , as viewed from a specified vantage point (generally a key viewing area, for the Management Plan), <u>and the setting appears only slightly altered (distinctive characteristics of that setting remain dominant).</u> As opposed to <u>development</u> , structures <u>or uses</u> that are fully screened, structures that are visually subordinate may be partially visible <u>but would be difficult to discern to the common viewer.</u> <u>They are not visually dominant in relation to their surroundings.</u> Visually subordinate <u>development, structures, or uses as well as</u> forest practices in the SMAs shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of <u>size, scale, amount, proportion</u> , intensity, direction, pattern, etc., shall not dominate the natural landscape setting.
Water-dependent	Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.
Water-related	Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

Wetlands	Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.
Wetlands functions	The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.
Winery <u>or Cidery</u>	An agricultural facility-building used for processing grapes-fruit into wine <u>or cider</u> , including laboratories, processing areas, offices, and storage areas. A winery <u>or cidery</u> is distinct from a wine <u>or cider</u> sales <u>and</u> tasting room; each of these uses must be explicitly reviewed and approved.
Wine <u>or cider</u> sales <u>and</u> tasting room	A facility that is accessory to a winery <u>or cidery</u> and used for tasting and retail sales of wine <u>or cider</u> , including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine <u>or cider</u> sales <u>and</u> tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved pursuant to Section 40.240.290. A wine <u>or cider</u> sales <u>and</u> tasting room is distinct from a winery <u>or cidery</u> ; each of these uses must be explicitly reviewed and approved.
Woody plant	A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

(Amended: Ord. 2006-05-04)

40.240.050 Applications and Procedures

A. Application for Review and Approval.

1. Applications received under this chapter shall be reviewed as Type II procedures specified in Section 40.510.020, except where specified otherwise herein.
2. Prior to initiating any use or development which requires review and approval by the responsible official, an application shall be completed pursuant to this section. The responsible official shall accept and review the application pursuant to Sections 40.240.050(C) through 40.240.400 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the responsible official. The responsible official will charge a fee for review of applications.
3. Standard application forms shall be available at Clark County and Columbia River Gorge Commission offices.
4. An application for permit review within the Columbia River National Scenic Area shall submit eight (8) individually bound copies of the following materials unless a lesser number is specified:
 - a. The original application form provided by the planning responsible official shall be completed and signed by the applicant;
 - b. The pre-application conference summary and a description of information submitted in response to the pre-application conference;
 - c. The following maps of the GIS development packet (as available from the Community Development Department):
 - (1) General location map;
 - (2) Elevation contours map;
 - (3) Aerial photography map (most recent year available from the Community Development Department);
 - (4) Aerial photography with contours;

- (5) Current zoning map;
- (6) Current comprehensive plan map;
- (7) Map of C-Tran bus routes, park and trails;
- (8) Water, sewer and storm systems map;
- (9) Soil type map;
- (10) Environmental constraints map; and
- (11) Assessor's quarter-section map;

d. A narrative explaining how the application meets or exceeds each of the applicable approval criteria and standards, and issues identified in the pre-application conference, including the minimum area and dimensions of the base zone and a general description of how services will be provided to the site:

- (1) The applicant needs to provide conceptual elevation drawings for the proposed structures and a description of the height, shape, color, building materials, exterior lighting and landscaping materials. The drawings should include the appearance of proposed buildings when built and surrounding final grades (see Section 40.240.800). If the applicant feels the site is not visible from any key viewing areas this must be demonstrated;
- (2) If the site is visible from any key viewing area, the applicant is encouraged to provide photographs from the key viewing area toward the building site with balloons or other siting device to verify visual subordination. Photographs can also be used to verify the site is not visible from any key viewing area, if that is the case;
- (3) The height of buildings is required in the applications, even if the site is not visible from a key viewing area;
- (4) The applicant shall address all applicable criteria outlined in Section 40.240.800;

e. Information necessary to demonstrate that the subject lot(s) has been created legally:

- (1) Prior county short plat, subdivision, lot determination or other written approvals, if any, in which the parcel was formally created or determined to be a legal lot; or
- (2) Sales or transfer of deed history, dating back to 1969, or a condition satisfying subsection (A)(4)(e)(1) of this section, to include copies of recorded deeds and/or contracts verifying the date of creation of the parcel in chronological order with each deed identified with the assessor's lot number;

f. A proposed plan drawn to scale. The scale of the plan shall be large enough to allow the responsible official to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of one (1) inch equals two hundred (200) feet (1:2,400), or a scale providing greater detail. The plan shall clearly depict the following information:

- (1) General Information.
 - (a) Applicant's name, mailing address and phone number;
 - (b) Owner's name and mailing address;
 - (c) Contact person's name, address and phone number;
 - (d) North arrow (oriented to the top, left or right of the page), scale and date;

- (e) Proposed name of project;
- (f) Vicinity map covering one-quarter (1/4) mile radius from the development site; and
- (g) Area of the site in acres or square feet;

(2) Existing Conditions. (For purpose of fully complete determination, only those existing conditions that are shown on the GIS map, known by the applicant or are discussed in the pre-application conference summary must be included on the proposed plan.)

(a) Environmental. On or within one hundred (100) feet of the site:

- (i) Topography (at two (2) foot contour intervals if available from a public source);
- (ii) Watercourses (streams, rivers, etc.) with thread of streams surveyed for all on-site watercourses;
- (iii) Areas prone to flooding;
- (iv) FEMA designated floodplains, flood fringe, or floodway;
- (v) Water bodies and known wetlands;
- (vi) Wetland delineation and assessment study for all on-site wetlands, four (4) copies of study required;
- (vii) Any unstable slopes and landslide hazard areas;
- (viii) Geotechnical report for all unstable slopes or landslide hazard areas on the site;
- (ix) Significant wildlife habitat or vegetation; and
- (x) Significant historic, cultural or archaeological resources;

(b) Land Use and Transportation.

- (i) Layout, square footage and dimensions of all parcels;
- (ii) Location(s) of any existing building(s) on the site and use;
- (iii) Location and width of existing easements for access, drainage, utilities, etc.;
- (iv) Name, location and width of existing rights-of-way;
- (v) Name, location, width and surfacing materials (e.g., gravel, asphalt or concrete, etc.) of roadways and easements (private and public);
- (vi) Location of existing driveways and those driveways across the street to include distance between driveways and roadways (centerline to centerline);
- (vii) Location and width of existing pedestrian and bicycle facilities on and within one hundred (100) feet of the site; and
- (viii) Transit routes and stops within one-quarter (1/4) mile of the development site;

(c) Water and Sewer. Make a note on the plan indicating the following:

- (i) Location and direction to the nearest fire hydrant;

- (ii) Location of existing sewage disposal systems and wells on the site; and
- (iii) Location of existing sewage disposal systems and wells within one hundred (100) feet of the site (as available from the health department);

g. Proposed Improvements.

(1) Environmental.

- (a) Wetland, stream, steep bank buffer areas/protected areas; and
- (b) Planned enhancement areas.

(2) Land Use and Transportation.

- (a) Dimensions of all proposed easements;
- (b) Location (i.e., dimensions from property lines) of any existing buildings to remain on the site to include square footage. For all structures include the number of stories, construction type (e.g., metal, wood, concrete block, etc.) and proposed uses;
- (c) Setbacks from property lines shall be shown on the site plan;
- (d) Location and width of all road rights-of-way;
- (e) Location width (e.g., curb to curb distance) and surface material of all proposed roadways (private or public), provided by drawing or note and typical cross-section (from county road standards);
- (f) Location of all road segments in excess of fifteen percent (15%) grade that are either on the site or within five hundred (500) feet of the site which are being proposed for site access;
- (g) Location, width, estimated grade and surface material of off-site roads which will provide access to the site within five hundred (500) feet of the site;
- (h) Location and width of proposed driveways for corner lots and driveways where sight distance standards cannot be met;
- (i) Sight distance triangles where sight distance standards cannot be met;
- (j) Location and width of proposed pedestrian and bicycle improvements other than those in standard locations within road rights-of-way;
- (k) Location and width of proposed easements for access, drainage, utilities, etc. (provided by drawing or note);
- (l) Layout of proposed structures including square feet;
- (m) Architectural drawings and sketches, indicating floor plan, elevation, types of materials and colors, and type of construction per the International Building Code;
- (n) Narrative on proposed uses, hours of operation, frequency of truck deliveries, and construction schedule;
- (o) Location, dimensions and number of off-street parking and loading areas;
- (p) Sign plan; and
- (q) Location and dimensions of recyclable and solid waste storage areas.

(3) Landscape Plan.

- (a) Location, number, species, size at planting, and spacing of proposed plant materials;
 - (b) Location, number, species and size of existing landscape material to be removed and/or retained;
 - (c) The location, type (such as sod, groundcover or shrub mass) and area (in terms of square feet and percentage of site) of all soft landscaped areas and buffers;
 - (d) Location, height and materials of fences, buffers, berms, walls and other methods of screening;
 - (e) Surface water management features integrated with landscape, recreation or open space areas;
 - (f) Location, size and construction type of hard landscaping features such as pedestrian plazas;
 - (g) Active or passive recreational or open space features;
 - (h) Final site contours; and
 - (i) The location of all fire hydrants;
- h. A preliminary stormwater plan pursuant to Section 40.386.030;
 - i. A proposed phasing plan (if any proposed) to include transportation and water quality improvements;
 - j. A transportation impact study, if required, pursuant to Chapter 40.350;
 - k. A utility review from the public sewer purveyor or one (1) copy of a preliminary soil suitability analysis, or equivalent for on-site systems from the health department;
 - l. A utility review from the public water purveyor, noting the ability to meet water pressure and fire flow requirements of the fire marshal or current evidence of the availability of suitable groundwater where water purveyor has determined public water or community water systems cannot be provided;
 - m. A completed State Environmental Policy Act (SEPA) checklist;
 - n. Applications necessarily associated with the Gorge Permit review, to the extent applicable, for variances to dimensional requirements of the base or overlay zones, for wetland and habitat permits, and for modifications to the road standards in Chapter 40.350;
 - o. Any and all existing covenants or restrictions and/or easements that apply to the property;
 - p. The corners of each proposed building should be staked and flagged at the time of application;
 - q. Appropriate protections of the streams that are on the property need to be taken in accordance with Chapter 40.440 and Section 40.240.850;
 - r. A forest practice application is required for any commercial removal of trees from the property;
 - s. In the SMA, applications and/or site plans shall contain the natural resources information required in Section 40.240.880;
 - t. Any additional information that the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans;

u. The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property;

v. The signature of the property owner on a statement that authorizes the responsible official or the responsible official's designee reasonable access to the site in order to evaluate the application.

5. Applications for the following uses or developments shall include additional information as required by the pre-application staff report or by the responsible official:

a. All buildings, roads, or mining and associated activities proposed on lands visible from key viewing areas, pursuant to Section 40.240.800;

b. In the GMA, production and/or development of mineral resources and expansion of existing quarries pursuant to Sections 40.240.~~285~~800(B)(14) and (B)(15);

c. In the GMA, all proposed structural development on sites visible from key viewing areas and involving more than two hundred (200) cubic yards of grading, regardless of slope, shall require a grading plan, pursuant to Section 40.240.800(B)(2~~6~~);

d. In the GMA, all applications for structural development involving more than one hundred (100) cubic yards of grading with slopes greater than ten percent (10%) shall require a grading plan pursuant to Section 40.240.800(B)(26);

e. In the SMA~~s~~, all applications for structural development involving more than one hundred (100) cubic yards of grading with slopes greater than ten percent (10%) (except trails) shall include a grading plan pursuant to Section 40.240.800(B)(26);

f. Elevation drawings shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale, pursuant to Section 40.240.800(B)(26);

g. In the GMA, vegetation management projects in public rights-of-way along scenic travel corridors, pursuant to Section 40.240.800(D)(4);

h. Large-scale uses as listed in Section 40.240.820(A)(3)(c) shall include reconnaissance survey reports, pursuant to Sections 40.240.820(A)(3)(f) and (g);

i. Proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are fifty (50) years old or older, pursuant to Section 40.240.820(A)(3)(h)(3);

j. In the GMA, new uses located in or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to Section 40.240.180(A)(1);

k. In the GMA, any review use in a wetland or within a wetland buffer zone, pursuant to Section 40.240.840(A)(2);

l. In the GMA, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Section 40.240.850(A)(2);

m. In the GMA, any review use within one thousand (1,000) feet of a sensitive wildlife area or site, pursuant to Section 40.240.860(A)(~~32~~). Large-scale uses as listed in Section 40.240.860(C) shall also include field survey information, pursuant to Section 40.240.860(C)(6);

n. In the GMA, any review use within one thousand (1,000) feet of a ~~rare sensitive~~ plant, pursuant to Section 40.240.870(A)(2). Large-scale uses as listed in Section 40.240.870(C) shall also include field survey information pursuant to Section 40.240.870(C)(6);

o. In the GMA, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to Section 40.240.430(A)(9), and if applicable, Section 40.240.430(A)(10);

p. In the GMA, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Section 40.240.430(A)(15);

q. In the GMA, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Section 40.240.430(A)(11);

r. In the SMA, on lands zoned Gorge Forest or Agriculture, a single-family dwelling, pursuant to Section 40.240.510(B)(10);

s. In the SMA, on lands zoned Gorge Forest or Agriculture, forest practices, pursuant to Section 40.240.510(B);

t. In the SMA, on lands zoned Agriculture or Forest, clearing trees for new agricultural use, pursuant to Section 40.240.510(B)(24);

u. In the SMA, on lands designated Open Space, any new use or development, pursuant to Section 40.240.600;

v. In the SMA, on lands zoned Gorge Agriculture or Forest, a single-family dwelling necessary and accessory to agricultural use, pursuant to Section 40.240.430;

w. In the SMA, on lands zoned Gorge SMA Agriculture or Forest, farm labor housing and agricultural buildings, pursuant to Section 40.240.430(B)(4);

x. In the GMA, on lands zoned Gorge Small Woodland, a single-family dwelling pursuant to Section 40.240.510(A)(1);

y. In the GMA, on lands zoned Gorge Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Section 40.240.430(A)(8);

z. In the GMA, on lands zoned Gorge Woodland, agricultural labor housing, pursuant to Section 40.240.510(A)(18); and/or

aa. Other uses as deemed necessary by the responsible official.

6. Completed application forms shall be submitted directly to the Community Development Department.

7. The requisite fee shall accompany the application.

(Amended: Ord. 2007-11-13; Ord. 2009-01-01; Ord. 2015-11-24; Ord. 2018-01-09)

B. Pre-Application Conference.

Within the Columbia River Gorge National Scenic Area pre-application conferences shall be mandatory for land use proposals requiring Type II or Type III review pursuant to Section 40.510.020 or 40.510.030. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this chapter, to discuss the principal elements of the proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

C. Contingent Vesting of Applications.

An application that is subject to pre-application review shall earlier contingently vest on the date a complete pre-application is submitted. Contingent vesting shall become final if a fully complete application for substantially the same proposal is submitted within one hundred eighty (180) calendar days of the date the responsible official issues a written summary of pre-application review pursuant to Section 40.510.030(A)(4).

D. Acceptance of Application.

The responsible official shall review the application for completeness and adequacy within the time frame pursuant to Chapter 40.510. To determine that an application is fully complete refer to Section 40.240.050(A), Application for Review and Approval. Additional submittals additional to Section 40.240.050(A) may be required through reference in the pre-application report.

1. No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The responsible official shall notify the applicant of all omissions and deficiencies in writing within the time frame pursuant to Chapter 40.510.

2. No application shall be accepted which the responsible official deems cannot be acted upon reasonably within the time frame pursuant to Chapter 40.510, except when the applicant consents to a longer period for action.

3. No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within five hundred (500) feet of the subject parcel. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.

4. No application for a proposed use which is explicitly prohibited by Section 40.240.110 shall be accepted.

a. The application shall be returned to the applicant.

b. A letter, signed by the responsible official, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

c. Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to this title.

(Amended: Ord. 2006-08-21)

E. Notice of Development Review.

1. Notice of development review shall be issued pursuant to Section 40.510.020(E) or 40.510.030(E), and shall provide the following information:

a. The notice shall state that the application and supporting documents are available for inspection at Clark County and Gorge Commission offices during normal working hours.

b. The notice shall state the applicant must comply with all applicable local, state and federal laws.

c. The notice sent to governments of the four Columbia River Treaty Tribes shall request comments, recommendations, or concerns relating to the protection of treaty rights, including rights to access, hunt, fish, and gather. The notice shall include a site plan and also may include supplemental information and a proposed treaty rights protection plans.

2. The notice shall be ~~sent~~ mailed to:

a. The Forest Service, Washington Department of Fish and Wildlife, Columbia River Gorge Commission, ~~Indian governments of the four Columbia River Treaty~~ Tribes, and the applicable city, and local library, and any other party that has requested notice; and

b. The Washington Department of Natural Resources Natural Heritage Program, if the responsible official or the Columbia River Gorge Commission or its staff determines that such notice is warranted; provided, that if the Columbia River Gorge Commission or its staff determines that such notice is warranted, it shall forward notice to the Heritage Program; and

c. As determined by Section 40.510.020(E) for Type II or Section 40.510.030(E) for Type III.

3. In addition to notice, fully complete application packets shall be routed to the Gorge Commission and any other party that has requested a fully complete application.

F. Comment Period.

Interested persons shall have fifteen (15) working days from the date which the notice is sent to submit written comments to the responsible official relative to the consistency of the proposed actions with the guidelines of this chapter Comments received from a tribal government at any time during the responsible official's review of a proposed development or use shall be considered to ensure that the proposed development or use does not affect or modify the treaty or other rights of that tribe.

1. Within seven (7) days of the close of the comment period, the responsible official shall determine if a wildlife management plan pursuant to Section 40.240.860(F) or a rare plant protection and rehabilitation plan pursuant to Section 40.240.870(F) is required.

2. For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the responsible official shall forward the survey to the State Historic Preservation Officer (SHPO), and Indian Tribes pursuant to Sections 40.240.820(A)(2) and (B)(2)(a).

3. Within seven (7) days of the close of the thirty (30) day reconnaissance survey comment period for SHPO and Indian Tribes, the responsible official shall determine if an evaluation of significance pursuant to Section 40.240.820(C) is required.

G. Decision of the Responsible Official.

1. In making a decision on a proposed use or development the responsible official shall:

- a. Consult with the applicant and such agencies as the responsible official deems appropriate;
- b. Consider information submitted by the applicant and all other relevant information available; and
- c. Consider all comments submitted pursuant to Section 40.240.050(F), and provide notice and consider the comments of the Forest Service and/or Columbia River Gorge Commission. The absence of timely comments of any parties provided notice shall not automatically preclude the responsible official from issuing a decision.

2. The responsible official shall approve a proposed use or development only if it is consistent with the standards of this chapter and other applicable regulations. In approving a proposed development action, the responsible official may impose conditions as necessary to ensure consistency with this chapter.

3. The responsible official shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of this chapter and other applicable regulations within the time frame pursuant to Section 40.510.020(F) or 40.510.030(F) except in one (1) or more of the following situations:

- a. The applicant consents to an extension of time;
- b. The responsible official determines that additional information is required pursuant to Section 40.240.050(A);
- c. The responsible official determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources; and/or
- d. Unforeseen circumstances including, but not limited to, weather or illness.

4. The responsible official shall ~~mail-send~~ a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments pursuant to subsection (F) of this section. The decision shall set forth the rights of appeal under Sections 40.510.020(H) or 40.510.030(H).

5. The decision of the responsible official shall be final unless a notice of appeal is filed in accordance with this title.

6. The decision of the responsible official approving a proposed development action shall become void:

a. When the development action is not undertaken within two (2) years of the decision; or

b. When the development action is discontinued for any reason for one (1) year or more.

7. An applicant may request an extension of the validity of a development approval. Such request shall be considered an administrative action and shall be submitted to the responsible official prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

8. The responsible official may grant an extension of up to twelve (12) months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation. The responsible official shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

9. The development approval timelines in this section shall take precedence over the development approval timelines in Section 40.500.010(B).

H. Standards for Applications and Expirations of Approvals.

1. Standards for Applications – Complete Application Required. Any proposed use, development or structure shall be reviewed according to the standards in effect on the date an applicant submitted a complete land use application to the reviewing agency. A complete application is one that the reviewing agency determines meets the Management Plan's requirements for:

a. A complete application form;

b. A complete site plan showing the proposed site (site plans with alternative sites or building envelopes are not sufficient); and

c. All applicable information specified in the parts of the Management Plan titled Resource Protection and Enhancement, Land Use Designations, and Administration. Incomplete applications shall not be reviewed.

2. Expirations of Approvals.

a. Notice Not Required. Expiration of any land use approval issued pursuant to this Columbia River Gorge National Scenic Area (Management Plan) shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.

b. Land Use Approvals without Structures. Any land use approval issued pursuant to the Management Plan for a use or development that does not include a structure shall expire two (2) years after the date the land use approval was granted, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established" means the final deed or plat has been recorded with the county recorder or auditor.

c. Land Use Approvals with Structures. Any land use approval issued pursuant to the Management Plan for a use or development that includes a structure shall expire as follows:

(1) When construction has not commenced within (2) two years of the date the land use approval was granted; or

(2) When the structure has not been completed within (2) two years of the date of commencement of construction.

d. Commencement of Construction. As used in subsection (H)(2)(c)(1) of this section, “commencement of construction” shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, “commencement of construction” shall mean actual construction of support structures for an approved aboveground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, “commencement of construction” shall mean actual grading of the roadway.

e. Completion of Structure. As used in subsection (H)(2)(c)(2) of this section, “completion of the structure” shall mean:

(1) Completion of the exterior surface(s) of the structure; and

(2) Compliance with all conditions of approval in the land use approval.

f. Extension of Validity of Land Use Approvals. A request for extension of the time frames in subsections (H)(2)(b), (c)(1) or (c)(2) of this section shall be submitted in writing before the applicable expiration date.

(1) A reviewing agency may grant one (1) twelve (12) month extension to the validity of a land use approval if it determines that events beyond the control of the applicant prevented commencement of the use or development (applicable to subsection (H)(2)(b) of this section) or commencement of construction (applicable to subsection (H)(2)(c)(1) of this section) within the original two (2) year time frame.

(2) An agency may also grant one (1) twelve (12) month extension if it determines that events beyond the control of the applicant prevented completion of the structure (applicable to subsection (H)(2)(c)(2) of this section) within the original two (2) year time frame.

(3) A request for extension shall state the reason why events beyond the control of the applicant warrant an extension.

(4) Approval or denial of a request for extension shall be considered an administrative decision.

I. Appeal Process.

Appeals will be handled pursuant to Section 40.510.020(H) for Type II applications or Section 40.510.030(~~II~~) for Type III applications.

J. Changes or Alterations to an Approved Action.

Any change or alteration to a development action approved by the Commission or responsible official pursuant to this rule shall be processed as new action, except that the responsible official may approve minor changes or alterations deemed to be consistent with the guidelines of this chapter and the findings and conclusions for the original action. If the responsible official approves a minor change, the Director shall notify all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the four (4) Indian tribal governments, the county planning department, and anyone who submitted comments during the comment period on the original land use application. The change itself (not the original decision) would be subject to appeal under the same time frames applicable to the original decision.

(Amended: Ord. 2006-05-04)

40.240.060 Expedited Development Review Process

A. Development Eligible for Expedited Review.

The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines contained in this section.

1. Except in Open Space, accessory structures between sixty (60) and two hundred (200) square feet in area and ten (10) feet or less in height. Only one (1) accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

2. Additions and covered decks for existing buildings provided the existing building is at least five hundred (500) square feet in area and the addition or covered deck is no larger than two hundred (200) square feet in area and no taller than the height of the existing building. Only one (1) addition and one (1) covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.

3. Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to six (6) feet in height and less than or equal to one hundred (100) feet in length.

4. Wire-strand fences other than those allowed outright, provided the fence complies with Section 40.240.860(G) if it is inside deer and elk winter range as delineated in the Gorge Commission and Forest Service natural resource inventories data or determined by an appropriate federal or state agency.

5. In the GMA, woven-wire fences for agricultural use that would enclose eighty (80) acres or less.

6. Decks that are:

a. Uncovered;

b. Attached and accessory to existing dwellings; and

c. Five hundred (500) square feet or less in area and thirty (30) inches or less in height above existing grade.

7. Road closure gates.

8. Signs, other than those allowed outright.

9. Outdoor lights.

10. Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to one hundred twenty (120) square feet in size and less than or equal to twelve (12) feet in height.

11. Lot line adjustments in the GMA that would not result in the potential to create additional parcels through subsequent land divisions, pursuant to Section 40.240.380, except all lot line adjustments for parcels designated Open Space, Public Recreation, or Commercial Recreation shall be reviewed through the full development review process.

12. Lot line adjustments in the SMA s are subject to the SMA lot line adjustment standards of Section 40.240.380(B).

13. Removal/demolition of structures that are less than fifty (50) years old, including wells, septic tanks and fuel tanks.

14. Decommission nonpaved roads, including ripping the road surface, barriers, and revegetation.

15. Trail reconstruction involving up to one thousand (1,000) feet of trail re-routing.
16. The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):
 - a. New ~~guardrails-traffic barriers~~ and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.
 - b. New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to one hundred twenty (120) square feet in size and less than or equal to twelve (12) feet in height. This category does not include signs.
 - c. Pave existing dirt and gravel roads; provided, that the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.
 - d. New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to one hundred twenty (120) square feet in size and less than or equal to twelve (12) feet in height.
17. New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that (a) no ditch for linear facilities would be more than thirty-six (36) inches wide, and (b) no excavation for nonlinear facilities would exceed twenty (20) cubic yards.
18. The following aboveground and overhead utility facilities:
 - a. Modify existing aboveground and overhead utility facilities or develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters; provided, that the development would be less than or equal to one hundred twenty (120) square feet in area and less than or equal to twelve (12) feet in height.
 - b. Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters; provided, that the replacement facilities would be in the same location as and no more than fifteen percent (15%) larger than the physical size of the existing facilities.
 - c. New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright; provided, that the size is the minimum necessary to provide the service.
19. Replacing an existing mobile home in a mobile home space within a mobile home park; provided, that:
 - a. The mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of existing use or structure and Sections 40.240.170(A) through (D);
 - b. The replacement mobile home shall be in the same location as the mobile home to be replaced;
 - c. The height of the replacement mobile home shall be no more than twenty percent (20%) greater than the mobile home to be replaced; and
 - d. The mass and footprint of the replacement mobile home shall be no more than one hundred percent (100%) greater than a single-wide mobile home to be replaced or no more than twenty-five percent (25%) greater than a double-wide mobile home to be replaced.
20. Retaining walls accessory to existing dwellings less than or equal to two (2) feet in height and less than or equal to one hundred (100) feet in length.
21. In the SMAs, wind machines for frost control in conjunction with agricultural use.

22. Additions to existing buildings or structures that generate solar power for approved uses, provided that the panels and hardware are non-reflective black or dark earth tone colors and do not increase the overall roof height. This category does not include free-standing solar arrays, which are subject to full review as new structures under the guidelines in "Renewable Energy Production" (Part II, Chapter 7: General Policies and Guidelines).

(Amended: Ord. 2008-06-02)

B. Resource and Treaty Rights Protections Guidelines.

Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

1. Scenic Resources.

a. In the GMA, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose eighty (80) acres or less.

b. Except for signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors ~~or list of acceptable colors approved by the reviewing agency~~ shall be included as a condition of approval. This guideline shall not apply to additions to existing buildings smaller in total square area than the existing building, which may be the same color as the existing building match the color of existing buildings.

c. Except for signs, structures topographically visible from key viewing areas shall use low or nonreflective building materials, including roofing, gutters, vents, and chimneys.

d. ~~Outdoor lights~~ Any exterior lighting shall be directed downward and sited, limited in intensity, hooded, and shielded such that they are not highly visible from key viewing areas in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes. Shielding and hooding materials shall be composed of nonreflective, opaque materials.

e. Signs shall comply with Section 40.240.300.

f. Structures within one-half (1/2) mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and ~~for~~ designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).

2. Cultural Resources.

a. The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey, pursuant to Section 40.240.820(A)(3) and (4).

b. The GMA guidelines that protect cultural resources and human remains discovered during construction Sections 40.240.820(F) and (G) shall be applied as conditions of approval for all development approved under the expedited development review process.

3. Recreation Resources. The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

4. Natural Resources.

a. Water Resources (Wetlands, Streams, ~~Rivers~~, Ponds, ~~and Lakes~~, and Riparian Areas). The development is outside water resources and their buffer zones ~~for wetlands, streams, rivers, ponds, and lakes~~. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

b. Sensitive Wildlife and ~~Sensitive~~Rare Plants.

(1) The development meets one(1) of the following:

(a) The development is at least one thousand (1,000) feet from known Priority Habitats or sensitive wildlife ~~areas or~~ sites (excluding sensitive aquatic species, and deer and elk winter range, ~~and turkey habitat~~) and known ~~sensitive~~rare plants; or

(b) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or

(c) For sensitive wildlife, the development is within one thousand (1,000) feet of known Priority Habitats or sensitive wildlife ~~areas or~~ sites (excluding sensitive aquatic species, and deer and elk winter range ~~and turkey habitat~~), but an appropriate federal or state wildlife agency determines (1) the Priority Habitat or sensitive wildlife ~~area or~~ site is not active, or (2) the proposed development would not compromise the integrity of the Priority Habitat or sensitive wildlife ~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance;

(d) For ~~sensitive~~rare plants, the development is within one thousand (1,000) feet of known ~~sensitive~~rare plants, but the Washington Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be a least two hundred (200) feet from the ~~sensitive~~rare plants.

(2) Development eligible for expedited review shall be exempt from the field survey requirements for sensitive wildlife (Section 40.240.860(C)) or ~~sensitive~~rare plants (Section 40.240.870(C)).

(Amended: Ord. 2008-06-02)

C. Treaty Rights Protection Guidelines.

Proposed developments reviewed using the expedited review process shall comply with the following treaty rights ~~protection~~ guidelines:

1. Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.

2. The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if a ~~a tribal government Indian tribe~~ submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

3. Except as provided in subsection (C)(2) of this section, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Part IV, Chapter 3, ~~Section IV of the Management Plan~~ Tribal Treaty Rights and Consultation shall not apply to proposed developments reviewed under the expedited review process.

D. Procedure for Expedited Review Process.

1. Applications.

a. Prior to initiating any use or development, which requires review and approval by the responsible official ~~Executive Director~~, an application shall be completed pursuant to this section.

b. The responsible official shall accept and review the application pursuant to this section for consistency with the appropriate guidelines.

c. Standard application forms shall be available from the department, and shall be provided to the county offices for which this chapter is effective and the Forest Service.

d. Applications for uses eligible for expedited review shall include the information required for review uses listed in Section 40.240.050. They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

2. Acceptance of Applications. Applications shall be accepted pursuant to Sections 40.510.010(A) and (B).

3. Notice of Development Review.

a. Within seven (7) days of the acceptance of an application, the responsible official shall issue notice of a proposed development review. The notice shall provide the following information:

- (1) The name of the applicant;
- (2) The general and specific location of the subject property;
- (3) A brief description of the proposed action;
- (4) The deadline for rendering a decision; and
- (5) The deadline for filing comments on the proposed action.

b. The notice shall state that the application and supporting documents are available for inspection at the county during normal working hours.

c. The notice shall state the applicant must comply with all applicable local, state, and federal laws.

d. The notice and a fully complete application packet shall be ~~sent~~mailed to the Gorge Commission, Forest Service, the four (4) Columbia River treaty tribes Indian tribal governments, The notice shall be sent to applicable county or city planning office(s), libraries and other agencies and interested parties that request a notice or that the responsible official determines should be notified.

4. Comment Period. Any interested person or party shall submit written comments within ten (10) days from the date a notice is sent. Comments received by a tribal government at any time during the expedited review process shall be considered, to ensure that the proposed development or use does not affect or modify the treaty or other rights of that tribe.

5. Written Decision.

a. In making a decision on a proposed use or development the responsible official shall:

- (1) Consult with the applicant and such agencies as the responsible official deems appropriate;
- (2) Consider information submitted by the applicant and all other relevant information available;
- (3) Consider all comments submitted pursuant to Section 40.240.050; and
- (4) Solicit and consider the comments of the Forest Service.

b. The responsible official shall approve a proposed use or development only if it is consistent with the standards of Section 6 and the purposes of the Act (Public Law 99-663), and this chapter.

- (1) In approving a proposed development action, the responsible official may impose conditions as necessary to ensure consistency with the guidelines of this chapter.

(2) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The responsible official's decision shall include this requirement.

c. The responsible official shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of Section 6 of the Management Plan and the purposes of the Act (Public Lands 99-663) within thirty (30) days after acceptance of the application.

d. The decision of the responsible official shall be final unless a notice of appeal is filed in accordance with Section 40.510.010(E). An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

6. Notice of Decision and Opportunity to Appeal.

a. The responsible official shall send a copy of a decision issued under the expedited review process to the four (4) ~~Indian~~ tribal governments, the Forest Service, and landowners within two hundred (200) feet of the perimeter of the subject parcel.

b. Any person wishing to appeal a decision issued under the expedited review process shall do so pursuant to Section 40.240.050(I).

7. Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses in Section 40.240.050(H).

8. Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses in Section 40.240.050(J).

(Amended: Ord. 2006-05-04; Ord. 2006-08-21)

40.240.070 Emergency/Disaster Response Actions

A. General Guidelines.

1. Actions taken in response to an emergency/disaster event, as defined in Section 40.240.040, are allowed in all GMA/SMA land use designations, subject to the notification requirements in subsection (B)(1) of this section.

2. Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, ~~and~~ or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

3. Structures or development installed or erected for a temporary use (e.g., sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one (1) year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life property, public services or the environment, an extension of no more than two (2) years may be granted by the responsible official or the Forest Service for federal agency actions.

4. The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

5. No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake or riparian area within the National Scenic Area ~~(NSA)~~ as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(Amended: Ord. 2006-08-21)

B. Notification Requirements.

1. Actions taken in response to an emergency/disaster event, as defined, are allowed in all GMA and SMA land use designations, subject to the following notification requirements:

a. Notification of an emergency/disaster response activity shall be submitted either within forty-eight (48) hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

b. Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within seven (7) days.

c. Notification shall be furnished to the responsible official or the Forest Service for federal agency actions. If the Forest Service is the action agency, it shall provide notice to the Gorge Commission.

d. At a minimum, the following information shall be required at the time of notification:

(1) Nature of emergency/disaster event;

(2) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.);

(3) Location of emergency/disaster response activities;

(4) Estimated start and duration of emergency/disaster response activities; and

(5) Contact person and phone number for the parties conducting emergency/disaster response actions.

e. Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

2. Upon notification of an emergency/disaster response action, the responsible official, or Forest Service shall, as soon as possible:

a. Review its natural resource ~~inventory~~ data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

b. Notify the Washington Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event; and

c. Notify the Forest Service, the ~~Office~~ Department of Washington Office of Archaeology and Historic Preservation, and the tribal governments of all emergency/disaster response activities. The Forest Service will review their cultural resource ~~inventory~~ data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

3. Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

(Amended: Ord. 2006-08-21)

C. Post-Emergency/Disaster Response Development Review Application Requirements.

1. Within thirty (30) days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the responsible official, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the party providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed thirty (30) days in duration ~~and not more than two (2) extensions shall be granted.~~

2. Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms “development activities” and “development” include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

3. Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within five hundred (500) feet of a known cultural resource (as determined in the notification process).

4. Applications shall include the following information:

a. Applicant’s name and address.

b. Location of emergency/disaster response.

c. A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

d. A map of the project area drawn to scale, at a scale of one inch equals two hundred (200) feet (1:2,400) or a scale providing greater detail. The map shall include:

(1) North arrow and scale;

(2) Boundaries, dimensions and size of subject parcel(s);

(3) Bodies of water, watercourses, and significant landforms;

(4) Existing roads and structures; and

(5) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

e. An exception to the scale requirements in subsection (C)(4)(d) of this section may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of one (1) inch equals two hundred (200) feet (1:2,400) or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

5. Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:

a. Notice of the application to landowners within two hundred (200) feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, ~~the four tribal governments~~ Columbia River treaty tribes, and interested parties;

b. A written decision with findings of fact and conclusions of law; and

c. An opportunity to request a hearing.

D. Post-Emergency/Disaster Response Development Review.

Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined, shall be reviewed for compliance with the following guidelines.

1. Scenic Resources.

a. Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as ~~seen-visible~~ from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in Section 40.240.800(C). In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

b. Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.

c. Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one (1) year.

d. The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are nonreflective, or of low reflectivity, and visually subordinate in their landscape setting as ~~seen-visible~~ from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.

e. Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as ~~seen-visible~~ from key viewing areas to the greatest extent practicable.

f. In the GMA, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(1) The spoil materials shall either be:

(a) Removed from the ~~NSA National Scenic Area~~;

(b) Deposited at a site within the ~~NSA National Scenic Area~~ permitted by the responsible official ~~an agency administering a Scenic Area land use ordinance~~; or

(c) Recontoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

(2) The responsible official shall decide whether an applicant removes the spoil materials, deposits the spoil materials, or (re)contours the spoils materials.

(3) The responsible official shall select the action in subsection (D)(1)(f)(1) of this section that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation, and natural resources.

(4) Disposal sites created pursuant to subsection (D)(1)(f)(1)(b) of this section shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.

g. In the SMA~~s~~, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(1) The spoil materials shall either be:

(a) Removed from the ~~NSA~~National Scenic Area; or

(b) Deposited at a site within the ~~NSA~~National Scenic Area permitted by ~~an~~ the responsible official ~~-a agency administering a Scenic Area land use ordinance~~ within two (2) years of the emergency.

(2) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.

(3) All grading (i.e., recontouring) shall be completed within thirty (30) days after the spoils materials are removed.

(4) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

(5) All revegetation shall take place within one (1) year of the date an applicant completes the grading.

(6) This provision shall take effect on August 3, 2006, or approval of a disposal site, whichever comes first.

2. Cultural Resources and Treaty Rights.

a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources.

b. Emergency/disaster response actions shall not affect or modify tribal treaty rights.

cb. The Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three (3) days after receiving notice that a post-emergency land use application has been received by the responsible official.

(1) Reconnaissance surveys shall be conducted by the Forest Service and comply with the standards in Section 40.240.820(A)(3)(d). Reconnaissance survey reports shall comply with the standards in Section 40.240.820(A)(3)(e).

(2) Historic surveys shall be conducted by the Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.

de. Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the county shall send a copy of all comments to the Gorge Commission and the tribal governments shall be notified by the responsible official when (1) a reconnaissance survey is required, or (2) cultural resources that are precontact or otherwise associated with Native Americans exist in the project area. Notices shall include a site plan. At a minimum, notice shall be sent via email where addresses are available. If a tribal government requests notice in another form, the responsible official shall comply with that request. Tribal governments shall have fifteen-thirty (30-15) calendar days

from the date a notice is sent to submit written comments. The tribal government may choose to include Written comments that should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them. The responsible official shall send a copy of all comments to the Gorge Commission.

ed. When written comments are submitted in compliance with subsection (D)(2)(c) of this section, the project applicant shall offer to meet within five (5) calendar days with the interested persons. The five (5) day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the responsible official following the consultation meeting. Consultation meetings and reports shall comply with the standards in Section 40.240.820(B)(1) and Sections 40.240.180(A) and (D).

fe. If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that generally follows the standards in Sections 40.240.820(A)(1) and (2), and Section 40.240.820(C)(1).

gf. A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in Section 40.240.820(E).

hg. The responsible official shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have fifteen (15) calendar days from the date a survey report is ~~mailed-sent~~ to submit written comments to the responsible official ~~Executive Director~~. The responsible official shall record and address all written comments in the final decision.

ih. The responsible official shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government regarding treaty rights, the responsible official shall justify how the opposing conclusion was reached.

ji. The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:

(1) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within fifteen (15) calendar days of the date that a notice was ~~sent~~ mailed.

(2) The emergency/disaster response action avoided cultural resources that exist in the project area.

(3) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.

(4) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

(a) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4); or

(b) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are

important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior, 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior, 1983).

3. Natural Resources.

a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

b. Buffer zones for ~~wetlands, streams, ponds, riparian areas, water resources, Priority Habitats or sensitive wildlife sites or areas~~, and sites containing rare plants shall be the same as those established in Sections 40.240.840, 40.240.850(F), 40.240.860(F)(4), 40.240.870(G), and 40.240.880(B) and (C).

c. ~~Wetlands, Streams, Ponds, Lakes, Riparian Areas, Water Resources~~

(1) Emergency/disaster response actions occurring within a water resource buffer zone ~~of wetlands, streams, pond, lakes or riparian areas~~ shall be reviewed by the Washington Department of Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. ~~State biologists shall respond within fifteen (15) days of the date the application is mailed.~~

(2) When emergency/disaster response activities occur within ~~wetlands, streams, ponds, lakes, riparian areas, or the water resources or their~~ buffer zones ~~of these areas~~, the applicant shall demonstrate the following:

(a) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or riparian areas.

(b) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(3) Impacts to ~~wetlands, streams, ponds, lakes and riparian areas, water resources~~ and their buffers, will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(4) If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response actions had minor effects on the aquatic area water resource or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in conclusion with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the ~~responsible official, Executive Director~~ shall incorporate them into the final order and the aquatic area protection process may conclude.

(5) Unless addressed through subsection (D)(3)(c)(4) of this section, mitigation and restoration efforts shall be delineated in a ~~rehabilitation plan~~ Water Resources Mitigation Plan. ~~Rehabilitation Water Resources Mitigation Plans~~ shall satisfy the standards in Sections 40.240.850(G)(1) and (2). ~~Rehabilitation Water Resources Mitigation Plans~~ shall also satisfy the following:

(a) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.

(b) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.

(c) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

d. Wildlife Habitat.

(1) Emergency/disaster response actions occurring within one thousand (1,000) feet of a ~~sensitive wildlife area or Priority Habitat or sensitive wildlife~~ site shall be reviewed by the Washington Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a ~~sensitive wildlife area or Priority Habitat or sensitive wildlife~~ site.

(2) Site plans for emergency/disaster response sites shall be submitted by the responsible official ~~Executive Director~~ to the Washington Department of Fish and Wildlife for review as prescribed in Sections 40.240.860(E)(1) and (2). ~~The wildlife agency shall respond within fifteen (15) days of the date the application is mailed.~~

(3) The wildlife protection process may terminate if the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines (a) the Priority Habitat or sensitive wildlife ~~area or site~~ was not active, or (b) the emergency/disaster response did not compromise the integrity of the Priority Habitat or sensitive ~~wildlife area or site~~ or occurred at a time when wildlife species are not sensitive to disturbance.

(4) If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response activities had minor effects on the ~~wildlife area or Priority Habitat or sensitive wildlife~~ site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the responsible official shall incorporate them into the final decision and the wildlife protection process may conclude.

(5) If the responsible official, in consultation with the Washington Department of Fish and Wildlife, determines that the emergency/disaster response activities had a diverse effect on a Priority Habitat or sensitive wildlife ~~area or site~~, the project applicant shall prepare a wildlife management mitigation ~~management mitigation~~ plan. Wildlife management mitigation plans shall comply with standards in Section 40.240.860(F). Upon completion of the wildlife management mitigation plan, the responsible official shall:

(a) Submit a copy of the wildlife management mitigation plan to the Washington Department of Fish and Wildlife, for review. The Washington Department of Fish and Wildlife will have fifteen (15) days from the date that a plan is mailed sent to submit written comments to the responsible official.

(b) Record any written comments submitted by the Washington Department of Fish and Wildlife, in its development review order. Based on these comments, the responsible official ~~Executive Director~~ shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the Washington Department of Fish and Wildlife, the responsible official ~~Executive Director~~ shall justify how the opposing conclusion was reached.

(c) Require the project applicant to revise the Wildlife Management Mitigation Plan as necessary to ensure that the proposed use would not adversely affect a Priority Habitat or sensitive wildlife ~~area or site~~.

e. Deer and Elk Winter Range. Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the standards in Section 40.240.860(G).

f. Rare Plants.

(1) Emergency/disaster response actions occurring within one thousand (1,000) feet of a ~~rare sensitive~~ plant shall be reviewed by the Washington Natural Heritage Program. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

(2) Site plans for emergency/disaster response sites shall be submitted to the Washington Natural Heritage Program by the responsible official. State natural heritage staff will, within fifteen (15) days from the date the application is ~~mailed sent~~, identify the location of the affected plants and delineate a two hundred (200) foot buffer zone on the applicant's site plan.

(3) The rare plant protection process may conclude if the responsible official, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.

(4) If the responsible official, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the ~~responsible official~~ ~~Executive Director~~ shall incorporate them into the final decision order and the rare plant protection process may conclude.

(5) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse ~~a~~ effects on rare plants or their buffer zone, the project applicant shall prepare a ~~protection and rehabilitation-Rare Plant Mitigation p~~Plan that meets the standards in Section 40.240.870(F).

(6) The responsible official shall submit a copy of all ~~protection and rehabilitation-Rare Plant Mitigation p~~Plans to the state heritage program for review. The state natural heritage program will have fifteen (15) days from the date the ~~protection and rehabilitation-Rare Plant Mitigation p~~Plan is ~~mailed sent~~ to submit written comments to the responsible official.

(7) The responsible official shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the responsible official shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the responsible official shall justify how the opposing conclusion was reached.

(8) The responsible official shall require the project applicant to revise the ~~protection and rehabilitation-Rare Plant Mitigation p~~Plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

4. Recreational Resources.

a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.

b. Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

(Amended: Ord. 2008-06-02)

E. Post-Emergency Construction.

Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event is allowed in all land use designations in accordance with Sections 40.240.050, 40.240.100 through 40.240.180 (as applicable), and 40.240.800 through 40.240.900. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use applications shall be submitted within twelve (12) months following an emergency/disaster event.

(Amended: Ord. 2006-05-04)

ARTICLE II. GENERAL GUIDELINES

40.240.100 Exempt Land Uses and Activities

A. This chapter shall not apply to:

1. Any treaty or other rights of any Indian tribes.
2. Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes, shall be exempt from regulation. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" or treaty fishing access sites pursuant to Public Law 79-14 and Public Law 100-581 before or after the effective date of the Management Plan. For those "in lieu or treaty fishing access" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.
3. Rights to surface or groundwater.
4. Water transportation activities on the Columbia River or its tributaries. The term "activities" includes those facilities necessary for navigation.
5. The operation, maintenance and modification of existing transmission facilities of the Bonneville Power Administration.
6. Laws, rules or regulations pertaining to hunting or fishing.
7. The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the off-site disposal of excavation material.
8. In the GMA, the rights and responsibilities of nonfederal timber landowners under the Washington Forest Practices Act, or under county regulations that supersede those acts.

B. Neither the Forest Service nor the Gorge Commission may establish any buffer zones or protective perimeters outside the boundaries of the Scenic Area.

(Amended: Ord. 2006-05-04)

40.240.110 Prohibited Land Uses and Activities

The following land uses and activities shall not be allowed within the Columbia River Gorge National Scenic Area in Clark County:

- A. Solid waste disposal sites or sanitary landfills within the SMAs.
- B. New industrial development in the National Scenic Area outside of the urban areas.
- C. Collective gardens as defined in Section 40.100.070.

(Amended: Ord. 2006-05-04; Ord. 2013-07-08; Ord. 2014-11-02)

40.240.120 Uses Allowed Outright

A. All Land Use Designations Except Open Space.

1. The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space:

a. In the GMA, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than five (5) years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.

b. In the SMA~~s~~, agricultural uses within previously disturbed and regularly worked fields or areas.

c. Forest practices in the GMA that do not violate conditions of approval for other approved uses and developments.

d. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

e. Accessory structures sixty (60) square feet or less in area and ten (10) feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, roads, transportation facilities, or utility facilities.

f. Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to five hundred (500) feet in length and less than or equal to ten (10) feet in height that are accessory to an existing dwelling; provided, that woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

g. Wire-strand fences less than or equal to forty-eight (48) inches in height that are outside deer and elk winter range as delineated in the Gorge Commission ~~and~~ Forest Service natural resource ~~inventories data~~ or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

h. The following transportation facilities:

(1) Replace existing safety or protective structures, including but not limited to guardrails, access control fences and gates, barriers, energy attenuators, safety cables, rockfall structures and traffic signals and controllers; provided, that the replacement structures are (a) the same location and size as the existing structures, and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes; provided, that the replacement structures are (a) the same location and size as the existing structures, and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(4) Permanent public regulatory, guide, and warning signs, except those excluded below; provided, that (a) the signs comply with the Manual on Uniform Traffic Control Devices (2012 or most recent version), and (b) the support structures and backs of all signs are dark brown with a flat, nonreflective

finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(5) Extensions of existing guardrails or traffic barriers less than or equal to fifty (50) feet in length and new guardrail ends for existing guardrails; provided, that the guardrails and guardrail ends are (a) located inside rights-of-way that have been disturbed in the past, and (b) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(6) New guardrails traffic barriers and guardrail ends; provided, that the structures are (a) located inside rights-of-way that have been disturbed in the past, and (b) are constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources). This category does not include jersey barriers.

(7) In the GMA, replacement and/or expand expansion of existing culverts; provided, that the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(8) In the SMAs, replacement and/or expand expansion of existing culverts for ephemeral streams or ditches; provided, that the visible ends of culverts shall be dark and nonreflective. The entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(9) Resurface or overlay Maintenance of existing railroad track and paved roads; provided, that the activity does not:

(a) Increase the width of a road or railroad; or

(b) Disturb the toe of adjacent embankments, slopes or cut banks; ~~or~~

~~(c) Change existing structures or add new structures.~~

(10) Apply dust abatement products to nonpaved road surfaces.

(11) Grade and gravel existing road shoulders; provided, that the activity does not:

(a) Increase the width of a road; or

(b) Disturb the toe of adjacent embankments, slopes or cut banks; ~~or~~

~~(c) Change existing structures or add new structures.~~

(12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to thirty (30) feet in length and less than or equal to one thousand (1,000) square feet in area. This category does not include guardrails, traffic barriers, or the substructure of bridges (e.g., foundations, abutments).

i. The following underground utility facilities:

(1) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that no excavation would extend beyond the depth and extent of the original excavation.

(2) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility railroad rights-of-way or easements that have been disturbed in the past; provided, that:

- (a) No excavation would extend more than twelve (12) inches beyond the depth and extent of the original excavation;
- (b) No ditch for linear facilities would be more than twenty-four (24) inches wide;
- (c) No excavation for nonlinear facilities would exceed ten (10) cubic yards; and
- (d) No recorded archaeological site is located within five hundred (500) feet of the development.

To comply with subsection (A)(1)(i)(2)(d) of this section, the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation and obtain a letter or other document stating no recorded archaeological site is located within five hundred (500) feet of the development.

j. The following aboveground and overhead utility facilities:

(1) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants; provided, that the replacement facilities would have (a) the same location and size as the existing facilities, and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* or a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(2) Replace existing utility poles; provided, that the replacement poles are:

- (a) Located within five (5) feet of the original poles;
- (b) No more than five (5) feet taller and six (6) inches wider than the original poles; and
- (c) Constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, nonreflective finish.

(3) New whip antennas for public service less than or equal to eight (8) feet in height and less than or equal to two (2) inches in diameter, cables, wires, transformers, and other similar equipment; provided, that all such structures are on existing utility poles or towers.

k. Flagpoles that are accessory to the principal building on a parcel; provided, that the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.

l. The following signs:

- (1) Election signs. Removal must be accomplished within thirty (30) days of election day.
- (2) "For sale" signs not greater than twelve (12) square feet. Removal must be accomplished within thirty (30) days of close of sale.
- (3) Temporary construction site identification, public service company, safety, or information signs not greater than thirty-two (32) square feet. Exceptions may be granted for public highway signs

necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices (2012 or most recent version). Removal must be accomplished within thirty (30) days of project completion.

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premises, or signs prohibiting or otherwise controlling fishing or hunting; provided, that such signs are not greater than six (6) square feet in the GMA and two (2) square feet in the SMAs.

(5) Temporary signs advertising civil, social, or political gatherings and activities; provided, that such signs do not exceed twelve (12) square feet. Removal must be accomplished within thirty (30) days of the close of the event.

(6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(7) In the GMA, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

m. In the GMA, wind machines for frost control in conjunction with an agricultural use.

(Amended: Ord. 2008-06-02)

B. GMA and SMA Open Space.

1. The following uses may be allowed without review in GMA and SMA Open Space:

a. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities. This does not include trail, road, and railroad expansions.

b. The following transportation facilities:

(1) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers; provided, that the replacement structures are (a) the same location and size as the existing structures, and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes; provided, that the replacement structures are (a) the same location and size as the existing structures, and (b) the same building materials as the existing structures, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(4) Permanent public regulatory, guide, and warning signs, except those excluded below; provided, that (a) the signs comply with the Manual on Uniform Traffic Control Devices (2012 or most recent version), and (b) the support structures and backs of all signs are dark brown with a flat, nonreflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(5) Extensions of existing guardrails or traffic barriers less than or equal to fifty (50) feet in length and new guardrail ends for existing guardrails; provided, that the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past, and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).

(6) New guardrails-traffic barriers and guardrail ends, provided the structures are (a) located inside rights-of-way that have been disturbed in the past, and (b) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* or a scenic highway corridor for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." This category does not include jersey barriers.

(7) In the GMA, replacement and/or expand expansion of existing culverts; provided, that the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(8) In the SMAs, replacement and/or expand expansion of existing culverts for ephemeral streams or ditches; provided, that the visible ends of culverts shall be dark and nonreflective.

(9) Resurface or overlay Maintenance of existing railroad track and paved roads; provided, that the activity does not:

(a) Increase the width of a road or railroad, or;

(b) Disturb the toe of adjacent embankments, slopes or cut banks. ~~or~~

~~(c) Change existing structures or add new structures.~~

(10) Apply dust abatement products to nonpaved road surfaces.

(11) Grade and gravel existing road shoulders; provided, that the activity does not:

(a) Increase the width of a road, or;

(b) Disturb the toe of adjacent embankments, slopes or cut banks. ~~or~~

~~(c) Change existing structures or add new structures.~~

(12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to thirty (30) feet in length and less than or equal to one thousand (1,000) square feet in area. This category does not include guardrails, traffic barriers, or the substructure of bridges (e.g., foundations, abutments).

c. The following underground utility facilities:

(1) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that no excavation would extend beyond the depth and extent of the original excavation.

(2) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility

facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that:

- (a) No excavation would extend more than twelve (12) inches beyond the depth and extent of the original excavation;
- (b) No ditch for linear facilities would be more than twenty-four (24) inches wide;
- (c) No excavation for nonlinear facilities would exceed ten (10) cubic yards; and
- (d) No recorded archaeological site is located within five hundred (500) feet of the development.

To comply with ~~this guideline subsection (B)(1)(c)(2)(d) of this section~~, the entity or person undertaking the development shall contact the Washington ~~Office Department~~ of Archaeology and Historic Preservation and obtain a letter or other document stating no recorded archaeological site is located within five hundred (500) feet of the development.

d. The following aboveground and overhead utility facilities:

- (1) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants; provided, that the replacement facilities would have (a) the same location and size as the existing facilities, and (b) the same building materials as the existing facilities, or building materials that are dark brown with a flat, nonreflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." (Part I, Chapter 1: Scenic Resources).
- (2) Replace existing utility poles; provided, that the replacement poles are:
 - (a) Located within five (5) feet of the original poles;
 - (b) No more than five (5) feet taller and six (6) inches wider than the original poles; and
 - (c) Constructed of natural wood, weathering steel (e.g., Corten), or materials that match the original poles, or materials that are dark brown with a flat, nonreflective finish.
- (3) New whip antennas for public service less than or equal to eight (8) feet in height and less than or equal to two (2) inches in diameter, cables, wires, transformers, and other similar equipment; provided, that all such structures are on existing utility poles or towers.

e. The following signs:

- (1) Election signs. Removal must be accomplished within thirty (30) days of election day.
- (2) "For sale" signs not greater than twelve (12) square feet. Removal must be accomplished within thirty (30) days of close of sale.
- (3) Temporary construction site identification, public service company, safety, or information signs not greater than thirty-two (32) square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices (2012 or most recent version). Removal must be accomplished within thirty (30) days of project completion.
- (4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premises, or signs prohibiting or otherwise controlling fishing

or hunting; provided, that such signs are not greater than six (6) square feet in the GMA and two (2) square feet in the SMA~~s~~.

(5) Temporary signs advertising civil, social, or political gatherings and activities; provided, that such signs do not exceed twelve (12) square feet. Removal must be accomplished within thirty (30) days of the close of the event.

(6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(7) In the GMA, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

40.240.130 Agricultural Buffer Zones in the General Management Area

All new buildings shall comply with the setbacks in Table 40.240.130-1 when proposed to be located on a parcel adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture and which are currently used for ~~or are~~ ~~suitable for~~ agricultural use:

A. Setback Guidelines.

Table 40.240.130-1. Type of Buffer (Feet from Property Line of Adjacent Agricultural Parcel)			
Existing Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-Foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

~~B.~~ New buildings adjacent to lands designated Large-Scale or Small-Scale Agriculture that are suitable, but currently not used for agriculture, shall use the open or fenced setback associated with the dominant type of agriculture in the vicinity. If a vegetation barrier, 8-foot berm, or terrain barrier exists, the corresponding setback shall apply. If more than one type of agriculture is dominant, the setback shall be the larger width.

~~C.B.~~ Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of eight (8) feet in height, and contoured at three to one (3:1) slopes to look natural. Shrubs, trees ~~and~~ or grasses shall be planted on the berm to control erosion and achieve a finished height of fifteen (15) feet.

~~D.C.~~ The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least six (6) feet high when planted and reach an ultimate height of at least fifteen (15) feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.

~~E.D.~~ The necessary berming ~~and~~ or planting must be completed during the first phase of development and maintained in good condition.

~~F.E.~~ If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

~~G.F.~~ A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Section 40.240.150 have been satisfied.

(Amended: Ord. 2006-05-04)

40.240.140 Buffers from Existing Recreation Sites

If new buildings or structures may detract from the use and enjoyment of established recreation sites, an appropriate buffer shall be established between the building/structure and the parcel.

(Amended: Ord. 2006-05-04)

40.240.150 Variances from Setbacks and Buffers (GMA)

A. Variances from setbacks and buffers within the GMA shall be reviewed under administrative variance criteria of Section 40.550.020. When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or nonresource uses, overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:

1. A setback or buffer to protect one (1) resource or use would cause the proposed use to fall within a setback or buffer to protect another resource; and
2. Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources.

(Amended: Ord. 2009-03-02)

B. A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or nonresource uses, may be varied to allow a residence to be built on a parcel of land upon a demonstration that:

1. The land use designation otherwise authorizes a residence on the tract;
2. No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer; and
3. The variance from the specified setback or buffer is the minimum necessary to allow the residence.

4. The variance shall not be used to permit an addition to a building (including, but not limited to, decks and stairs), when the addition would be within the setback, except where the building is wholly within the setback, in which case, the addition may only be permitted on the portion of the building that does not encroach any further into the required setback.

C. The responsible official may grant a variance to the setback and buffer requirements in Section 40.240.890, upon finding that the following conditions exist:

1. The proposed project is a public use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a scenic travel corridor.
2. All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.
3. Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.
4. The variance is the minimum necessary to accommodate the use.

(Amended: Ord. 2006-05-04)

40.240.160 Applying New Less-Stringent Regulations to Development Approved Under Prior National Scenic Area Regulations

A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior National Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area Final Interim Guidelines*, original Management Plan), subject to the following standards:

- A. The applicant shall apply for the same development that was reviewed in the original decision.
- B. The development shall remain in its current location.
- C. The agency that currently has jurisdiction over the applicant's property shall review the application and send notice of the application to agencies and other parties entitled to receive notice under the current rules.
- D. The agency shall review the entire development to ensure that it would fully comply with all the current guidelines (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural resources).
- E. The agency shall issue a new decision that supersedes the original decision.
- F. The new decision may remove or revise original conditions or approval or add new conditions or approval to ensure full compliance with all the current guidelines.

(Amended: Ord. 2006-05-04)

40.240.170 Existing and Discontinued Uses

A. Except as otherwise provided, existing uses or structures in the Clark County portion of the Scenic Area may continue, so long as it is used in the same manner and for the same purpose.

B. Replacement of Existing Structures Not Damaged or Destroyed by Disaster.

Except as provided in Section 40.240.170(C), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one (1) year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

1. The replacement structure shall ~~be used in the same manner and for the same purpose~~ have the same use as the original structure.
2. The replacement structure may have a different size ~~and~~ or location than the original structure. An existing ~~mobile-manufactured~~ home may be replaced with a framed residence and an existing framed residence may be replaced with a ~~mobile-manufactured~~ home.
3. The replacement structure shall be subject to:
 - a. Scenic, cultural, recreation and natural resources guidelines;
 - b. Treaty rights guidelines; and
 - c. Land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.
4. The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one (1) year time frame.

C. Replacement of Existing Structures Damaged or Destroyed by Disaster.

An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two (2) years

of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

1. The replacement structure shall ~~be used in the same manner and for the same purpose~~ have the same use as the original structure. An existing ~~mobile-manufactured~~ home may be replaced with a framed residence.

2. The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if all the following conditions exist:

a. A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

b. The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks a alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

c. The new building site complies with the cultural resources, natural resources, and treaty rights ~~protection~~ guidelines.

3. The replacement structure shall be the same size and height as the original structure; provided, that:

a. The footprint of the replacement structure may be up to ten percent (10%) larger than the footprint of the original structure. The footprint of a structure includes any covered decks and porches, attached garages, and breezeways that share a wall with the structure.

b. The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code. Height is generally defined as the greatest vertical distance between the lowest finished grade adjoining any exterior wall and the highest point of the roof.

4. The replacement structure shall only be subject to the following scenic resources standards:

a. The replacement structure shall comply with the ~~scenic resources~~ guidelines regarding color and reflectivity in 40.240.800. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

b. Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

c. In the GMA, the replacement structure shall comply with the ~~scenic resources~~ GMA guidelines regarding landscaping in 40.240.800. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable. ~~provided, that:~~

~~(1) Except as provided in Section 40.240.170(C)(4)(c)(2), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.~~

~~(2) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.~~

~~(3) To help determine how much vegetation may be required under Section 40.240.170(C)(4)(c)(1) and (2), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:~~

~~(a) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.~~

~~(b) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.~~

~~(c) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in ten (10) years.~~

~~(4) The height of any new trees shall not be required to exceed five (5) feet.~~

~~(5) The time frame for achieving visual subordination shall be ten (10) years or less from the commencement of construction.~~

d. In the SMA, the replacement structure shall comply with the ~~scenic resources~~ SMA guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable; provided, that:

~~(1) The Scenic Resources Implementation Handbook shall be utilized to determine approvable Use of plant species appropriate for the area and minimum approvable sizes of new trees planted needed to achieve the standard (based on average growth rates expected for approvable the recommended species) are required. Examples of native specific are identified in the Scenic Resources Implementation Handbook as appropriate to the area.~~

(2) The height of any new trees shall not be required to exceed five (5) feet.

(3) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be ten (10) years.

5. The replacement structure shall be pursuant to Sections 40.240.170(B)(1), (B)(2) and (B)(3) if it would not comply with Sections 40.240.170(C)(2) and (C)(3).

6. The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two (2) year time frame.

(Amended: Ord. 2006-08-21; Ord. 2008-06-02)

D. Changes to Existing Uses and Structures.

Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this chapter.

1. Expansion of Existing Commercial and Multifamily Residential Uses. In the special management area, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, pursuant to Sections 40.240.800 through 40.240.900 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited.

2. Expansion of Existing Industrial Uses. In the GMA existing industrial uses may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

3. Conversion of Existing Industrial Uses. In the GMA, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.

~~4. Existing Development or Production of Mineral Resources. In the GMA, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to this chapter if any of the following conditions exist:~~

~~(a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to fifty percent (50%) of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.~~

~~(b) The site has not maintained a required state permit.~~

~~(c) The site has not operated legally within five (5) years before the date of adoption of the Management Plan.~~

54. Existing Development or Production of Mineral Resources. In the SMAs, uses involving the exploration, development or production of sand, gravel or rock in the SMAs may continue if both of the following conditions exist:

(a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the Special Management Areas; and

(b) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural or recreation resources.

E. Discontinuance of Existing Uses and Structures.

Except as provided in Section 40.240.170(C), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

1. Multiple Uses. An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

2. Change in Use. An existing use or structure shall become discontinued if the use or use of the structure changes.

F. Discontinued Uses and Structures.

Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

(Amended: Ord. 2006-05-04)

40.240.180 Indian Tribal Treaty Rights and Consultation

A. ~~Proposed New~~ review uses and development located in, ~~or~~ providing recreation river access to, or on parcels that adjoin the Columbia River or its fishbearing tributaries shall include the following supplemental information:

1. The site plan map shall show adjacent river areas at least one-half (1/2) mile upstream and downstream from the project site, the locations at which river access is planned, and the locations of all tribal fishing sites known to the project applicant.

2. A description of the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods. The site-

~~plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:~~

- ~~a. Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak use periods.~~
- ~~b. List tribal commercial fishing seasons in the project vicinity, as established by the four (4) treaty tribes.~~
- ~~c. List tribal ceremonial fishing seasons in the project vicinity.~~
- ~~d. Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.~~

3. Proposed treaty rights protection measures that will be used to avoid effects to Indian treaty or other rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

B. At the same time that the county sends notice, the county shall offer to meet with or consult with the tribal government prior to making a decision on the proposed development. Offers to meet or consult with a tribal government shall include phone calls and electronic communication to tribal government chairs, chief administrative officers, and natural and cultural resource staff. The county shall make more than one attempt to contact a tribal government. Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

C. Indian Tribal governments shall have twenty-three (23) calendar days from the date a notice is sent mailed request that the county consult with the tribal government regarding potential effects or modifications to treaty or other rights of the tribe. All substantive comments, recommendations, or concerns expressed by tribal governments during the consultation meeting shall be summarized by the county, subject to the following confidentiality standards:

1. The county shall keep confidential and may not disclose to any person or party who is not the applicant, the applicant's representative or the necessary county planning staff and decision makers the tribal government's comments, recommendations, and concerns, and notes of the consultation and other information related to protection of treaty rights, unless the tribal governments expressly authorizes disclosure.

2. The confidential information shall be submitted to the Gorge Commission for review in the event of an appeal, and shall remain confidential and not subject to disclosure to any person or party other than the applicant, the applicant's representative, the appellant, the appellants representative or the necessary Gorge Commission staff and Gorge Commission members unless the tribal government expressly authorizes disclosure.

D. Any time periods specified in a county ordinance to review an application shall stop when a tribal government requests consultation and shall not start again until the county meets with all tribal governments that requested consultation and the county receives all additional information and actions from the project applicant necessary to avoid effects to treaty rights to the satisfaction of the tribal governments that requested consultation.

E. A tribal government's choice to consult with the county shall, in no way, be interpreted as a waiver of the tribe's sovereign immunity or waiver of any claim that the proposed use affects or modifies a treaty right or other tribal rights.

to submit substantive written comments to the responsible official. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

~~D. Tribal Government Consultation.~~

~~1. When substantive written comments are submitted to a responsible official in a timely manner, the project applicant shall offer to meet with the responsible official and the Indian tribal government that submitted comments within ten (10) calendar days. The ten (10) day consultation period may be extended upon agreement between the project applicant and the Indian tribal government. Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.~~

2. ~~All~~ substantive comments, recommendations, or concerns expressed by ~~Indian~~ tribal governments during the consultation meeting shall be ~~recorded and addressed~~ resolved by the county or project applicant through revisions to the project application, conditions of approval, and, if necessary in a treaty rights protection plan. The protection plan shall include measures to avoid effects or modifications to treaty and other rights of any Indian tribe.

~~3. The responsible official shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have thirty (30) calendar days from the date a protection plan is mailed to submit written comments to the responsible official.~~

E. Conclusion of the Treaty Rights Protection Process.

1. ~~The responsible official shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe. The final decision shall integrate findings of fact that address the county's effort to meet with or consult with the tribal governments and any revisions and treaty rights protection plan resolving the tribal governments' any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the responsible official must justify how it reached an opposing conclusion.~~

2. The treaty rights protection process may conclude if the responsible official determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

3. A finding by the responsible official that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses ~~adversely~~ affect or modify treaty or other tribal rights.

F. For new development and uses in the SMA, the Forest Service shall determine effects on treaty rights and shall notify the responsible official of the determination.

(Amended: Ord. 2006-05-04)

ARTICLE III. USES AND STRUCTURES ALLOWED IN VARIOUS LAND USE DESIGNATIONS

40.240.200 Agricultural Buildings

A. The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

B. To satisfy Section 40.240.200(A), applicants shall submit the following information with their land use application:

1. A description of the size and characteristics of current agricultural use.

2. An agricultural plan for any proposed agricultural use that specifies a agricultural use (e.g., crops, livestock, products), a agricultural areas and acreages (e.g., fields, pastures, enclosures), a agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).

3. A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

(Amended: Ord. 2006-05-04)

40.240.205 Horse Boarding Facilities

The responsible official shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings and the number of recommended animal units provided in the guidance documents by the Clark Conservation District, WSU Extension Offices and the Natural Resource Conservation Service for the geographic area the application is located within.

(Amended: Ord. 2009-03-02)

40.240.210 Temporary Use Hardship Dwellings

Temporary use hardship dwellings shall be permitted in the GMA and SMA on parcels containing a principal residential dwelling, subject to the following:

A. The temporary placement of a ~~mobile-manufactured home~~, a tiny home on a trailer, or other similar structure may be granted under the following circumstances:

1. A family hardship exists where conditions relate to the necessary care for a family member ~~of the family occupying the principal dwelling and~~ where medical conditions relate to the infirm or aged.

2. The hardship dwelling shall use the same subsurface sewage disposal system and well used by the existing dwelling, or utilize existing public sewer and water systems. In all cases well and septic systems shall be used in a manner and location to minimize impacts to resource lands.

3. The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and recreation resources of Sections 40.240.800 through 40.240.900.

4. The structure does not require a permanent foundation.

B. A permit may be issued for a two (2) year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.

C. Upon expiration of the permit or cessation of the hardship, whichever comes first, the ~~mobile home hardship dwelling~~ shall be removed within thirty (30) days. A new permit may be granted upon a finding that a family hardship continues to exist.

(Amended: Ord. 2006-05-04)

40.240.220 Sewer and Water Services

A. Sewer lines may be extended from an urban area into a rural area to serve:

1. Areas with a documented health hazard.

2. Recreation uses open to the public, only upon a demonstration by the responsible official local government that there is no practicable alternative to providing service to the area. In such cases, the lines shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the sole justification for revision to an urban area boundary.

B. New uses authorized in this chapter may hook up to existing sewer and water lines in rural areas.

(Amended: Ord. 2006-05-04)

40.240.230 Docks and Boathouses

A. New, private docks and boathouses serving only one (1) family and one (1) property ~~shall~~ may be allowed, up to one hundred twenty (120) square feet in size.

B. New, private docks and boathouses serving more than one (1) family and property ~~shall~~may be allowed, up to two hundred (200) square feet in size.

C. Public docks open and available for public use ~~shall~~may be allowed.

D. Boathouses may be allowed under Sections 40.240.230(A) and (B) only when accessory to a dwelling and associated with a navigable river or lake.

(Amended: Ord. 2006-05-04)

40.240.240 Home Occupations ~~and Cottage Industries~~

Home occupations ~~and cottage industries~~ may be established as authorized in specified land use designations consistent with the following ~~guidelines~~conditions:

A. ~~A home occupation may~~ May employ ~~only the~~ residents of the home ~~and up to three (3) outside employees.~~

~~B. A cottage industry may employ up to three (3) outside employees.~~

~~C.B.~~ No more than twenty-five percent (25%) of the total actual living space of the dwelling may be used for the home occupation ~~or cottage industry.~~

~~D.C.~~ No more than five hundred (500) square feet of an accessory structure may be used for a home occupation ~~or cottage industry.~~

~~E.D.~~ There shall be no outside, visible evidence of the home occupation ~~or cottage industry~~, including outside storage.

~~F.E.~~ Exterior structural alterations to the residence for the home occupation ~~or cottage industry~~ shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation ~~or cottage industry.~~

~~G.F.~~ No retail sales may occur on the premises, ~~except incidental sales at lodging establishments authorized in this chapter.~~

~~H.G.~~ One (1) nonanimated, nonilluminated sign, not exceeding two (2) square feet in area, may be permitted on the subject structure or within the yard containing the home occupation ~~or cottage industry.~~

~~I.H.~~ Parking not associated with residential use shall be screened so it is not visible from key viewing areas.

~~J.I.~~ In the GMA, a bed and breakfast lodging establishment that is two (2) bedrooms or less is considered a home occupation and shall meet the guidelines of Sections 40.240.240 and 40.240.250.

~~K.J.~~ In the SMA, a bed and breakfast lodging establishment that is two (2) bedrooms or less is considered a home occupation and shall meet the guidelines of Sections 40.240.240 and 40.240.250, except Section 40.240.250(D).

(Amended: Ord. 2006-05-04)

40.240.245 Overnight Accommodations

A. Overnight accommodations may be established in a legal single-family dwelling, in the 5-acre and 10-acre Residential land use designations, consistent with the following conditions:

1. The owner of the subject parcel may rent the dwelling for up to 90 room nights per year.

2. Parking areas shall be screened so they are not visible from key viewing areas.

3. The use is incidental and subordinate to the primary use of the property.

4. The dwelling must be the permanent residence of the owner and occupied by the owner during rental.

5. Commercial events are not permitted at overnight accommodations.

6. The overnight accommodation may employ up to three employees other than the residents of the dwelling.

7. Land use approvals for overnight accommodations shall be valid for no more than two years. Landowners must reapply for the use after a land use approval expires, demonstrating compliance with conditions of approval through financial and other records. Permits will not be renewed if there have been past violations, including failure to file.

40.240.250 Bed and Breakfast Inns

Bed and breakfast inns may be established as authorized in specified land use designations subject to Section 40.260.050, and the following:

- A. Guests may not occupy a facility for more than fourteen (14) consecutive days.
- B. One (1) nonanimated, nonilluminated sign not exceeding four (4) square feet in area may be permitted on the structure or within the yard containing the structure.
- C. Parking areas shall be screened so as to not be visible from key viewing areas.
- D. In the SMA_s, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

(Amended: Ord. 2006-05-04)

40.240.260 Small-Scale Fishing Support and Fish Processing Operations

Small-scale fishing support and fish processing operations in conjunction with a family-based commercial fishing business may be allowed on parcels designated GMA Residential, GMA Small Woodland, or GMA Small-Scale Agriculture, subject to the following conditions:

- A. The operation shall comply with Section 40.240.180. In addition, if the operation will be located on land designated Small Woodland, then it shall also comply with Sections 40.240.540 and 40.240.550.
- B. The following fishing support activities may be allowed:
 - 1. Maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing equipment that is used in the family-based commercial fishing business; and
 - 2. Garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-based commercial fishing business.
- C. The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or freezing of fish that is caught by the family-based commercial fishing business. Other fish processing activities shall not be allowed, including, but not limited to, canning, smoking, salting or brining for wholesale or retail sale.
- D. The operation shall be located on a lawful parcel that is contiguous with and has direct access to the Columbia River.

E. The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall participate in the fishing support and fish processing operation.

F. The operation may only employ residents of the dwelling and up to three (3) outside employees.

G. No more than twenty-five percent (25%) of the total actual living space of the dwelling may be used for the fishing support and fish processing operation.

H. The operation may take place in an existing or new lawful accessory building or an existing agricultural building on the subject parcel. A new building constructed for the purpose of housing a fishing support and fish processing operation shall be considered an accessory building. An existing agricultural building shall not be expanded and a new agricultural building shall not be constructed for the purpose of housing a fishing support and fish processing operation.

I. An accessory building used in the fishing support and fish processing operation may be allowed up to two thousand five hundred (2,500) square feet.

J. Docks may be allowed as follows:

1. One (1) dock serving a parcel with an approved fishing support and fish processing operation may be allowed up to five hundred (500) square feet in size.

2. For multiple contiguous parcels each with a approved fishing support and fish processing operation, the area of the docks authorized in subsection (J)(1) of this section may be combined into one (1) dock; provided, that the total size of the dock shall not exceed two thousand (2,000) square feet.

K. There shall be no outside visible evidence of the fishing support and fish processing operation, including storage, other than boats and docks.

L. No retail sales may occur on the parcel.

M. The operation shall only support and process fish caught by residents of the dwelling and up to three (3) outside employees.

N. Before beginning the operation, applicants shall demonstrate that they have obtained and complied with federal, state and ~~for~~ local water quality and wastewater permits.

(Amended: Ord. 2006-05-04)

40.240.270 Resource Enhancement Projects

A. Applications for resource enhancement projects must describe the goals and benefits of the proposed enhancement project. They must also thoroughly document the condition of the resource before and after the proposed enhancement project. Applicants shall seek technical assistance from federal, state or county technical experts for assistance in designing voluntary wetland, stream, habitat, plant, and scenic enhancement projects.

B. In addition to other guidelines that protect scenic, cultural, recreation, and natural resources, quarry enhancement projects shall comply with the following guidelines:

1. Application Requirements. In addition to other applicable requirements, land use applications for quarry enhancement projects shall include perspective drawings of the site as ~~seen~~ visible from key viewing areas as specified in Section 40.240.800(B)(15) and a reclamation plan that provides at a minimum the following all the applicable information specified in Sections 40.240.800(A)(6)(a) through (e), except: (a) the words "pre-reclamation" and "post-reclamation" should replace the words "pre-mining" and "post-mining," respectively, and (b) the appropriate state agency or local government does not have to approve the reclamation plan.

a. A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-reclamation existing grades and post-reclamation final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar

drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

b. Cross-sectional drawings of the site showing pre-reclamation and post-reclamation grades.

c. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

d. Description of drainage/erosion control features to be employed for the duration of the use.

e. A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

2. Scenic Resource Standard. Quarry enhancement projects shall restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

3. Natural Resource Standard. Sites shall be replanted using native plants found in the landscape setting or eco-region to the maximum extent practicable.

4. Time Frames. The following time frames shall apply to quarry enhancement projects:

a. All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the date an applicant begins on-the-ground work.

b. All landscaping shall be planted within one (1) year of the date an applicant completes the grading.

c. An applicant may request one (1) year extension to the one year grading time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after grading has commenced and before the one (1) year grading time frame has expired.

d. An applicant may also request one (1) six (6) month extension to the one (1) year landscaping time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after landscaping has commenced and before the one (1) year landscaping time frame has expired.

C. Enhancement of wetlands not associated with any other project proposal may be allowed. Enhancement efforts shall be conducted pursuant to a written plan consistent with the provisions under 40.240.840.I.

D. Enhancement of streams, ponds, lakes, and riparian areas not associated with any other development proposal may be allowed. Enhancement efforts shall be conducted pursuant to a written plan consistent with the provisions under 40.240.840.K.

E. In the SMAs, enhancement of wetlands, streams, ponds, lakes, and riparian areas not associated with any other project proposal may be allowed if such efforts comply with the wetlands, streams, ponds, lakes, and riparian areas provisions in 40.240.840. Enhancement efforts shall be conducted pursuant to a written plan, consistent with the provisions described in 40.240.880.

(Amended: Ord. 2006-05-04)

40.240.280 Disposal Sites for Spoil Materials from Public Road Maintenance Activities

A. Application Requirements.

In addition to other applicable requirements, land use applications for disposal sites shall include the same information that applicants are required to submit for expansion of existing quarries and exploration, development

(~~extraction and excavation~~), and production of mineral resources ~~production and/or development of mineral resources~~ in the GMA, including, but not limited to:

1. A reclamation plan that provides ~~at a minimum the following all the applicable~~ information ~~specified in Sections 40.240.800(A)(6)(a) through (e), except (a) the words “pre disposal” and “post disposal” should replace the words “pre mining” and “post mining,” and (b) the appropriate state agency or local government does not have to approve the reclamation plan.~~

a. ~~A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre- reclamation existing grades and post- reclamation final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.~~

b. ~~Cross-sectional drawings of the site showing pre- reclamation and post- reclamation grades.~~

c. ~~Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.~~

d. ~~Description of drainage/erosion control features to be employed for the duration of the use.~~

e. ~~A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.~~

2. Perspective drawings of the site as ~~seen-visible~~ from key viewing areas as specified in Section 40.240.~~285800(B)(15)~~.

3. Cultural resource reconnaissance and historic surveys, as required by Section 40.240.820(A)(3)(a) and (b), respectively. Disposal sites shall be considered a “large-scale use” according to Section 40.240.820(A)(3)(c).

4. Field surveys to identify sensitive wildlife areas or sites and ~~rare sensitive~~ plants as described in Sections 40.240.860(C) and 40.240.870(C).

B. Siting Standard.

The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to locate the disposal site outside the National Scenic Area or inside an urban area. At a minimum, the applicant shall submit a feasibility and suitability analysis that compares the proposed disposal site to existing or potential disposal sites located both outside the National Scenic Area and inside an urban area.

C. Scenic Resource Standards.

Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries and ~~exploration, development (extraction and excavation), and production of mineral resources production and/or development of mineral resources~~ in the GMA, as follows:

1. Sites more than ~~three(3)~~ four(4) miles from the nearest key viewing area shall be visually subordinate as ~~seen-visible~~ from any key viewing area, pursuant to Section 40.240.~~285800(B)(27)~~. An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed three (3) years beyond the start of on -the-ground activities.

2. Sites less than ~~three(3)~~ four(4) miles from the nearest key viewing area shall be fully screened from any key viewing area, pursuant to Section 40.240.~~285800(B)(28)~~. An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic

and visual conditions, but shall not exceed one (1) year beyond the start of on-the-ground activities. Disposal activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

3. Reclamation plans shall restore the site to a natural appearance that blends with and emulates ~~surrounding~~ natural landforms and vegetation patterns characteristic to the landscape setting to the maximum extent practicable.

(Amended: Ord. 2006-05-04; Ord. 2006-08-21)

40.240.285 Expansion of Existing Quarries and Exploration, Development, and Production of Mineral Resources

A. Expansion of existing quarries and exploration, development (extraction and excavation), and production of mineral resources may be allowed where authorized in specified land use designations and consistent with sections B through G below.

B. Expansion of existing quarries and exploration, development (extraction and excavation), and production of mineral resources proposed on sites more than four (4) miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:

1. The site plan requirements for such proposals pursuant to this chapter have been met.

2. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc., associated with the use would be visually subordinate as visible from any key viewing areas.

3. A reclamation plan to restore the site to a natural appearance that blends with and emulates distinctive characteristics of the designated landscape setting to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 40.240.285.F and G in this section.

4. A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:

a. A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.

b. An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.

c. The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.

d. The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.

e. The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.

f. The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc., and appropriate time frames to achieve such results, including winter screening considerations.

C. Unless addressed by 40.240.285.B of this section, exploration, development (extraction and excavation), and production of mineral resources may be allowed upon a demonstration that:

1. The site plan requirements for such proposals pursuant to this chapter have been met.

2. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.

3. A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 40.240.285.F and G in this section.

D. An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than four (4) miles from the nearest key viewing area from which it is visible shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed three (3) years beyond the date of approval.

E. An interim time period to achieve compliance with full screening requirements for new quarries located less than four (4) miles from the nearest key viewing area from which it is visible shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed one (1) year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

F. For all exploration, development (extraction and excavation), production of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates distinctive characteristics inherent to its landscape setting to the maximum extent practicable. At a minimum, such reclamation plans shall include:

1. A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

2. Cross-sectional drawings of the site showing pre-mining and post-mining grades.

3. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

4. Description of drainage/erosion control features to be employed for the duration of the use.

5. A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

6. If the site is visible from key viewing areas, the applicant shall also submit perspective drawings of the proposed mining areas as visible from applicable key viewing areas.

G. All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The reviewing agency may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction. The state agency shall have 30 calendar days from the date a reclamation plan is sent to submit written comments on the proposal. State agency comments shall address the following:

1. Whether the proposed mining is subject to state reclamation permit requirements;

2. If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

3. For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

40.240.290 Commercial Events

A. Commercial events include weddings, receptions, indoor concerts, farm dinners, or events similar in size and activity and must be parties and other small scale gatherings that are incidental and subordinate to the primary use on a parcel.

B. Commercial events may be allowed in the GMA except on lands designated Open Space or Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:

1. The use must be in conjunction with a non-site lawful ~~winery~~, wine ~~or~~ cider sales ~~and~~ tasting room, bed and breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to Section 40.240.310 and not the requirements of this section.
2. The owner of the subject parcel shall live on the parcel and shall operate and manage the use.
3. A single commercial event shall host no more than one hundred (100) guests.
4. The use shall comply with the following parking requirements:
 - a. A single commercial event shall include no more than fifty (50) vehicles for guests;
 - b. All parking shall occur on the subject parcel;
 - c. At least two hundred (200) square feet of parking space shall be required for each vehicle;
 - d. Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited; and
 - e. All parking areas shall be fully screened from key viewing areas.
5. The owner of the subject parcel may conduct eighteen (18) single events up to one (1) day in length per year.
6. The owner of the subject parcel shall notify the reviewing agency and all owners of land within five hundred (500) feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be sent mailed at least seven (7) calendar days before an event.
7. Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed; provided, that all such structures are erected or placed on the subject parcel no more than two (2) days before the event and removed no more than two (2) days after the event. Alternatively, temporary structures may remain in place for up to ninety (90) days if they are fully screened from key viewing areas.
8. The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:
 - a. The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands.
 - b. The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in Section 40.240.130 or designated Commercial Forest Land or Large or Small Woodland, as required in Section 40.240.550.
 - c. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland.
 - d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within five hundred (500) feet of the perimeter of the subject parcel on which the use is proposed to be located have been notified and given at least ten (10) days to comment prior to a decision.

e. Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example, they may limit noise, lighting and operating hours.

f. Land use approvals for commercial events shall not be valid for more than two (2) years. Landowners must reapply for the use after a land use approval expires.

9. A yearly report shall be submitted to the reviewing agency by January 31st reporting on the events held the previous year. This report shall include the number of events held, how many people were in attendance, and copies of catering contracts or other vendors used to verify.

10. Permits shall not be renewed if there have been past violations, including failure to file.

(Amended: Ord. 2006-05-04)

40.240.300 Signs

A. Signs may be allowed in all zoning districts in the GMA pursuant to the following provisions:

1. Except for signs along public highways necessary for public safety, traffic control or road construction which are consistent with the Manual on Uniform Traffic Control Devices (2012, or most recent version), the following signs are prohibited:

a. Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays and other signs which are internally illuminated, exclusive of seasonal holiday light displays;

b. New billboards;

c. Signs with moving elements; and

d. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

2. Any sign which does not conform with a provision of this section and has existed prior to a adoption of the Management Plan shall be considered nonconforming and subject to the following:

a. Alteration of existing nonconforming signs shall comply with this section.

b. Any nonconforming sign used by a business must be brought into conformance concurrent with any expansion or change in use which requires a development permit.

3. All signs shall meet the following guidelines unless they conflict with the Manual on Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual on Uniform Traffic Control Devices (2012, or most recent version) shall supersede these guidelines.

a. The support structure shall be unobtrusive and have low visual impact.

b. Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Colors of signs shall blend with their setting to the maximum extent practicable.

c. Backs of all signs shall be unobtrusive, nonreflective, and blend in with the setting.

d. Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

e. In addition to a-d, signs shall meet the below guidelines according to Recreation Intensity Class (and subject to compliance with 40.240.890.D and 40.240.890.E):

(i) Recreation Intensity Class 1 (Very Low Intensity) - Simple interpretive signs or displays, not to exceed a total of 50 square feet. Entry name signs, not to exceed 10 square feet per sign.

(ii) Recreation Intensity Class 2 (Low Intensity) - Simple interpretive signs and displays, not to exceed a total of 100 square feet. Entry name signs, not to exceed 20 square feet per sign.

(iii) Recreation Intensity Class 3 (Moderate Intensity) - Interpretive signs, displays or facilities. Visitor information and environmental education signs, displays, or facilities. Entry name signs, not to exceed 32 square feet per sign.

(iv) Recreation Intensity Class 4 (High Intensity) - Entry name signs, not to exceed 40 square feet per sign.

f. For recreation facility design projects, signs shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes

B. Signs in the SMA shall be allowed pursuant to the following provisions:

1. Prohibited Signs.

a. Advertising billboards.

b. Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.

c. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.

2. Pre-existing signs are allowed to continue; provided, that no changes occur in size, structure, color, or message.

3. New signs shall be allowed as specified in the applicable zoning district.

4. No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

5. Except for signs allowed without review pursuant to Section 40.240.120, all new signs shall meet the following guidelines, and be consistent with the Manual on Uniform Traffic Control Devices (2012, or most recent version):

a. Signs shall be maintained in a neat, clean and attractive condition.

b. The character and composition of sign materials shall be harmonious with the landscape and ~~or~~ related to and compatible with the main structure upon which the sign is attached.

c. Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

d. Signs shall be unobtrusive and have low contrast with the setting.

e. The visual impact of the support structure shall be minimized.

f. Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

g. Backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

h. Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.

6. Public signs shall meet the following guidelines in addition to subsections (B)(2) through (B)(5) of this section:

a. The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, interpretive, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.

b. Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.

c. Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

7. Signs for public and commercial recreation facilities, home occupations, and commercial uses shall meet the following guidelines in addition to subsections (B)(2) through (B)(5) of this section:

a. Any sign advertising or relating to a business which is discontinued for a period of thirty (30) consecutive days shall be presumed to be abandoned and shall be removed within thirty (30) days thereafter, unless permitted otherwise by the jurisdictional authority.

b. Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.

c. Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

d. Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding sixteen (16) square feet.

e. Recreation developments may have one (1) on-premises name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

8. Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

40.240.310 Special Uses in Historic Buildings

Special uses in historic buildings are allowed pursuant to the following:

A. For the purposes of this section, "historic buildings" means buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Section 40.240.310(C)(1)(a).

B. Additional Review Uses for Historic Buildings.

1. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to the guidelines of Sections 40.240.800 through 40.240.900, and Sections 40.240.310(C)(1)(b) through (e) and 40.240.310(C)(2) through (4).

2. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places and which were former restaurants ~~and~~ or inns shall be permitted to re-establish these former uses, subject to the guidelines of Sections 40.240.800 through

40.240.900, and Sections 40.240.310(C)(1)(b)(1) and (2), (C)(1)(c) through (e), and (C)(2) through (4). The capacity of restaurant use and overnight accommodation shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties, and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.

3. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than one hundred (100) square feet and incidental and subordinate to the primary use of the property, subject to the guidelines of Sections 40.240.800 through 40.240.900, and Sections 40.240.310(C)(1)(b)(1) and (2), (C)(1)(c) through (e), and (C)(2) through (4). Voluntary donations and ~~or~~ fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.

4. The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register of Historic Places and that was fifty (50) years old or older as of January 1, 2006, subject to the guidelines of Sections 40.240.800 through 40.240.900, and Section 40.240.310(C):

a. Establishments selling food and ~~or~~ beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building as the building existed on January 1, 2006, including any decks, terraces, or patios also existing as of that date. Banquets, private parties, and other special events that take place entirely within approved establishments selling food and ~~or~~ beverages shall be considered part of the approved use.

b. Overnight accommodations, and the room capacity of such accommodations shall be limited to the number of existing rooms in the historic building as of January 1, 2006.

c. Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property.

d. Wineries, and cideries, in conjunction with an on-site vineyard or orchard, upon a showing that processing of wine or cider is from grapes fruits harvested grown on the subject parcel ~~or and~~ the local region, within a historic building, as the building existed on January 1, 2006.

e. Sales/tasting rooms in conjunction with an on-site winery or cidery, within a historic building, as the building existed on January 1, 2006.

f. Conference ~~and/or~~ retreat facilities within a historic building, as the building existed on January 1, 2006.

g. Artists studios and galleries within a historic building, as the building existed on January 1, 2006.

h. Gift shops within a historic building, as the building existed on January 1, 2006, that are:

(1) Incidental and subordinate to another approved use included in Section 40.240.310(B)(4); and

(2) No larger than one hundred (100) square feet.

i. Interpretative displays, picnic areas or other recreational day use activities on the subject property.

j. Parking areas on the subject property to support any of the uses in this subsection.

5. Uses in subsections (B)(1) and (B)(4)(C) of this section are not subject to the requirements of Section 40.240.290. Commercial events at historic properties are regulated by this section. Applications for commercial events shall meet the requirements of Section 40.240.310(C)(1)(b)(4). The following apply to commercial events at historic buildings:

a. Commercial events include weddings, receptions, ~~indoor concerts, farm dinners, or events similar in size and activity and must be parties, and other gatherings that are~~ incidental and subordinate to the primary use of the parcel.

b. The owner of the subject property shall notify the reviewing agency and all owners of land within five hundred (500) feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be ~~sent mailed~~ at least seven (7) calendar days before an event.

6. Uses in subsections (B)(3) and (B)(4)(i) are not subject to the parking limits in Section 40.240.890.

7. Land use approvals for special uses in historic buildings shall be subject to review by the ~~responsible official local government~~ every five (5) years from the date the original approval was issued. As part of this review, the applicant shall submit to the responsible official documentation on the progress made in implementing the protection and enhancement plan required by Section 40.240.310(C)(1)(b). The responsible official shall submit a copy of such documentation to the State Historic Preservation Officer (SHPO). The SHPO shall have thirty (30) calendar days from the date this information is ~~mailed-sent~~ to submit written comments to the responsible official. If the responsible official's determination contradicts comments from the SHPO, the responsible official shall justify how the opposing conclusion was reached. The responsible official shall revoke the land use approval if the owner has failed to implement the actions described in the protection and enhancement plan according to the schedule for completing such actions in this plan. The responsible official, however, may allow such a use to continue for up to one (1) additional year from the date it is determined that the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicant from completing the specified actions according to the approved schedule, what progress the applicant has made towards completing such actions, and a proposed revised schedule for completing such actions.

~~8. In the event a court enters a judgment that one (1) or more of the use authorizations provided for in subsections (B)(1) through (B)(4) of this section are invalid, the authorizations for other uses in this subsection are severed and will remain in effect.~~

(Amended: Ord. 2006-08-21)

C. Additional Resource Protection Standards for Uses in Historic Buildings. The following standards apply to the proposed uses listed in subsection (B) of this section, in addition to the requirements of Sections 40.240.800 through 40.240.900:

1. Cultural Resources.

a. All applications for uses listed in Section 40.240.310(B)(4) shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports" (~~Management Plan, page I-58~~ Part I, Chapter 2: Cultural Resources). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation" (National Park Service, National Register Bulletin #15). Eligibility determinations shall be made by the responsible official, based on input from the SHPO. The responsible official shall submit a copy of any historic survey and evaluation to the SHPO. The SHPO shall have thirty (30) calendar days from the date this information is ~~mailed-sent~~ to submit written comments on the eligibility of the property to the responsible official. If the responsible official's determination contradicts comments from the SHPO, the responsible official shall justify how the opposing conclusion was reached.

b. Applications for Special Uses for Historic Buildings shall include a protection and enhancement plan which shall include the following:

(1) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and a adequate maintenance of the historic resource, and a proposed schedule for completing such actions.

(2) A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.

(3) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g., parking areas, site for temporary structures, interpretive displays) shall be shown on the use plan.

(4) Any proposal for commercial events at a historic property shall include an operation plan for commercial events, to be incorporated into the protection and enhancement plan. The operational plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at a minimum, address:

(a) Number of events to be held annually;

(b) Maximum size of events, including number of guests and vehicles at the proposed parking area;

(c) Provisions for temporary structures, including location and type of structures anticipated; and

(d) How the proposed commercial events will contribute to protection and enhancement of the historic resource.

c. The responsible official shall submit a copy of the protection and enhancement plan to the SHPO. The SHPO shall have thirty (30) calendar days from the date this information is ~~mailed~~sent to submit written comments to the responsible official. The SHPO shall address consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on the historic resource.

d. The proposed use has been determined by the responsible official to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the responsible official's final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how it reached its opposing conclusion.

e. Proposed alterations to the building or surrounding area associated with the proposed use have been determined by the responsible official to be consistent with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*. If the responsible official's final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how it reached its opposing conclusion.

2. Scenic Resources.

a. New parking areas associated with the proposed use shall be located on the subject property as it existed on January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt and other impervious materials shall be prohibited.

b. New parking areas associated with the proposed use shall be visually subordinate from key viewing areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination. New screening vegetation may be used if existing topography and vegetation

are insufficient to help make the parking area visually subordinate from key viewing areas, if such vegetation would not adversely affect the historic character of the building's setting.

c. Temporary structures associated with a commercial event (i.e., tents, canopies, portable restrooms) shall be placed on the subject property no earlier than two (2) days before the event and removed within two (2) days after the event. Alternatively, temporary structures may remain in place for up to ninety (90) days after the event if the responsible official determines that they will be visually subordinate from key viewing areas.

3. Recreation Resources. The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

4. Agricultural and Forest Lands.

a. The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.

b. The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock, or forest products.

c. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.

d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within five hundred (500) feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least ten (10) days to comment prior to a decision on an application for a special use for a historic building.

(Amended: Ord. 2006-05-04)

40.240.310 Renewable Energy Production

A. Production of electrical power, including, but not limited to wind and solar production, for commercial purposes is considered an industrial use and is prohibited.

B. Solar and wind power generation that is accessory to a primary structure or a allowed use is not considered an industrial use and may be permitted provided that that the capacity for power generation is limited to the expected annual electrical power need of the structure or use. The generating equipment may serve only the parcel on which it is located, or an adjacent parcel in the same ownership and used in conjunction with the subject parcel. Sale of power back to the electrical grid is permitted, provided that it is an occasional event, not ongoing over the course of the year.

C. Equipment attached to an existing structure is an addition to the structure on which it is located.

D. Free-standing equipment is a new accessory structure.

ARTICLE IV. LAND DIVISIONS AND LOT LINE ADJUSTMENTS

40.240.370 Land Divisions and Cluster Development

A. New land divisions in the SMA are not allowed, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan.

B. New land divisions shall be permitted in the GMA if the following are met:

1. Proposed land divisions comply with Chapter 40.510 and the procedural requirements of Chapters 40.520 and 40.540. Divisions of land resulting in four (4) or fewer lots shall be reviewed under the procedures of Sections 40.540.030 and 40.510.020. Divisions of land resulting in five (5) or more lots shall be reviewed under the procedures of Sections 40.540.040 and 40.510.030.

2. Lots resulting from such proposed land divisions shall comply with all applicable provisions of this chapter, including minimum specified lot sizes and associated zoning maps.

C. Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be subject to the guidelines of this chapter.

D. At the time of creation of one (1) or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

E. Land divisions shall be limited in deer and elk winter range and turkey habitat as outlined in 40.240.470 and 40.240.570.

~~E. Where authorized in Sections 40.240.430(A)(20), 40.240.510(A)(19), and 40.240.650(F) a land division in the GMA may create parcels smaller than the designated minimum size and may include a bonus, as specified under Section 40.240.370(G), in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the local government must find that clustering new dwellings will provide a siting opportunity not available through conventional parcel by parcel development. These opportunities include siting the new dwellings to:~~

~~1. Be located in areas with screening vegetation or other features that reduce visibility of development as seen from key viewing areas;~~

~~2. Avoid significant landscape features;~~

~~3. Protect the existing character of the landscape setting;~~

~~4. Reduce interference with movement of deer or elk in winter range;~~

~~5. Avoid areas of known cultural resources;~~

~~6. Consolidate road access, septic drain fields, or other development features to reduce impacts associated with grading or ground disturbance;~~

~~7. Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites, or other natural resources; and~~

~~8. Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.~~

~~F. In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an urban area. The local government shall ensure permanent protection for open areas created by cluster development. No parcel in a cluster development may be smaller than one (1) acre in a five (5) acre Residential or ten (10) acre Residential designation or two (2) acres in a Small Scale Agriculture or Small Woodland designation.~~

~~G. In the GMA, cluster development may create up to twenty five percent (25%) more parcels than otherwise allowed by the minimum parcel size on lands designated five (5) acre Residential or ten (10) acre Residential and up to fifty percent (50%) more on lands designated Small Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one (1) additional parcel.~~

~~H. In the GMA, at least seventy-five percent (75%) of land subject to a cluster development shall be permanently protected as undeveloped land.~~

~~I. In the GMA, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.~~

(Amended: Ord. 2006-05-04)

40.240.380 Lot Line Adjustments

A. The following guidelines shall apply to lot line adjustments in the GMA:

1. Lot line adjustments for parcels in all land use designations except Open Space, Commercial, Public Recreation, or Commercial Recreation shall comply with the following standards:

a. The lot line adjustment shall not result in the creation of any new parcel(s).

b. The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the maximum density allowed by the land use designation(s) for the affected parcels.

c. The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or nonprofit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

d. The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:

(1) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or setback requirements; provided, that (a) the parcel to be enlarged would not become eligible for a subsequent land division, and (b) the amount of land transferred would be the minimum necessary to resolve the issue.

(2) Allow a public or nonprofit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

e. The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture, Commercial Forest Land, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).

f. The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

g. The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

2. Lot line adjustments for parcels designated Open Space shall comply with the following standards:

a. The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. There is no specified minimum parcel size for parcels designated Open Space.

b. The lot line adjustment shall comply with subsections (A)(1)(a), (b), (e), (f) and (g) of this section.

3. Lot line adjustments for parcels designated Commercial shall comply with subsections (A)(1)(a), (b), (e), (f) and (g) of this section.

4. Lot line adjustments for parcels designated Public Recreation or Commercial Recreation shall comply with the following standards:

a. The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. There are no specified minimum parcel sizes for parcels designated Public Recreation or Commercial Recreation.

b. The lot line adjustment shall comply with subsections (A)(1)(a), (b), (e), (f) and (g) of this section.

(Amended: Ord. 2008-06-02)

B. The following guidelines shall apply to lot line adjustments in the SMA:

1. The proposed lot line adjustment shall not result in the creation of any new parcel(s).

2. A lot line adjustment shall not result in a parcel greater than or equal to forty (40) acres with a dwelling becoming less than forty (40) acres.

3. A lot line adjustment shall not result in a parcel less than forty (40) acres becoming forty (40) acres or greater.

4. A parcel that is smaller than forty (40) acres shall not be reduced in size, except to accomplish one of the following purposes:

a. Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or setback requirements; provided, that (1) the parcel to be enlarged would not become forty (40) acres or greater, and (2) the amount of land transferred would be the minimum necessary to resolve the issue.

b. Allow a public or nonprofit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.

5. The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

6. The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

40.240.390 Consolidation of Lots

A. A unit of land shall be consolidated with adjacent lands in the same ownership if the unit of land:

1. Is smaller than the current minimum parcel size;

2. Is located within a final subdivision, division of land created by record of survey, or division of land created by other means of greater than four (4) lots; and

3. Is older than five (5) years from the date of filing.

B. No portion of a consolidated plat shall be considered a separate parcel solely because an existing parcel overlays, and possibly fragments, that consolidated subdivision.

C. Section 40.240.390(A) shall not be applied to consolidate two (2) or more units of land where each unit of land is developed with a dwelling that qualifies as an existing use or is subject to a fully complete application to develop a dwelling. One (1) or more undeveloped units of land shall be consolidated with one (1) or more developed units of land.

(Amended: Ord. 2006-05-04)

ARTICLE V. LAND USE DESIGNATIONS

40.240.400 Agricultural Land Designations

Sections 40.240.400 through 40.240.470 shall apply to those areas zoned Gorge Large-Scale, Small-Scale Agriculture or Gorge SMA Agriculture on the Scenic Area Land Use Designation Map.

(Amended: Ord. 2006-05-04)

40.240.410 Uses Allowed Outright – Agricultural Land

The uses listed in Section 40.240.120(A) are allowed without review on lands designated Large-Scale Agriculture, Small-Scale Agriculture or SMA Agriculture.

(Amended: Ord. 2006-05-04)

40.240.420 Uses Allowed Through the Expedited Development Review Process – Agricultural Land

The uses listed in Section 40.240.060 are allowed with review through the expedited development review process on lands designated Large-Scale Agriculture, Small-Scale Agriculture or SMA Agriculture.

(Amended: Ord. 2006-05-04)

40.240.430 Review Uses – Agricultural Land

A. The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture pursuant to compliance with Sections 40.240.800 through 40.240.900:

1. New cultivation, pursuant to compliance with Sections 40.240.820 through 40.240.870, and upon demonstration that the landowner has sufficient water to support the use.

2. Agricultural structures, except buildings, in conjunction with a gricultural use including new cultivation.

3. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to Section 40.240.200.

4. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsections (A)(5) and (6) of this section.

5. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel less than or equal to (ten) 10 acres in size are subject to the following additional standards:

a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

6. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional standards:

a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The footprint of any individual accessory building shall not exceed one thousand five hundred (1,500) square feet.

c. The height of any individual accessory building shall not exceed twenty-four (24) feet.

7. The temporary use of a ~~mobile-manufactured home~~, tiny house on a trailer, or similar structure in the case of a family hardship, subject to Section 40.240.210.

8. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

a. The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling; and

b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one (1) or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. Current use includes a minimum area which would satisfy Section 40.240.430(A)(8)(c)(4); and

c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(1) Size of the entire farm or ranch, including all land in the same ownership;

(2) Type(s) of agricultural uses (crops, livestock) and acreage;

(3) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area; and

(4) ~~Income Capability~~ Annual income. The farm or ranch, and all its constituent parcels, ~~is capable of producing produce~~ at least ~~forty-eighty~~ thousand dollars (\$480,000) in gross annual income in 2020 dollars. This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year. This determination shall be made using the following formula:

$(A)(B)(C) = I$ where:

A = Average yield of the commodity per acre, or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = ~~Income capability~~ Annual income

9. On lands zoned Gorge Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling which is included in, or is eligible for

inclusion in, the National Register of Historic Places, in accordance with the criteria for use in evaluating the eligibility of cultural resources contained in the National Register Criteria for Evaluation (36 CFR 60.4).

10. On lands zoned Gorge Small-Scale Agriculture, a single-family dwelling on any legally created and existing parcel.

11. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative; provided, that all of the following conditions exist:

a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. "Relative" means grandparent, grandchild, parent, child, brother or sister;

b. The dwelling would be located on the same parcel as the dwelling of the principal operator; and

c. The operation is a commercial enterprise as determined by Section 40.240.430(A)(8)(c).

~~12. Construction, reconstruction or modifications of roads not in conjunction agriculture.~~

~~123.~~ Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) ~~and~~ or activities (e.g., closing and revegetating unused roads, recontouring a bandoned quarries).

~~134.~~ Towers and fire stations for forest fire protection.

~~145.~~ Agricultural labor housing upon a showing that:

a. The proposed housing is necessary and accessory to a current agricultural use;

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed nine (9) months; and

c. The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

~~156.~~ On lands designated Gorge Large-Scale Agriculture, on a parcel which was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

a. The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands;

b. The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be utilized in conjunction with other agricultural operations in the area;

c. The dwelling shall be set back from any a butting parcel designated Gorge Large-Scale or Small-Scale Agriculture, as required in Section 40.240.130(A) or any a butting parcels zoned Gorge Large or Small Woodland, as required in Section 40.240.140(A);

d. A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland; and

e. All owners of land in areas zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland, within five hundred (500) feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least ten (10) days to comment prior to a decision.

~~167. On parcels in Small Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, pursuant to Section 40.240.370. If the designated minimum parcel size is twenty (20) acres, this provision will apply to parcels forty (40) acres in size or larger. Similarly, if the designated minimum parcel size is forty (40), eighty (80), or one hundred sixty (160) acres, this provision will apply to parcels eighty (80) acres or larger, one hundred sixty (160) acres or larger, or three hundred twenty (320) acres or larger, respectively.~~

178. Life estates, pursuant to Section 40.240.450.

189. Land divisions, subject to Section 40.240.370.

~~1920.~~ Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, pursuant to Section 40.240.380.

~~201.~~ Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

212. Docks and boathouses, pursuant to Section 40.240.230.

223. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

234. Commercial events, pursuant to Section 40.240.290.

~~245.~~ Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

B. The following uses may be allowed on lands zoned Gorge SMA Agriculture, pursuant to compliance with Sections 40.240.800 through 40.240.900. The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

1. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of Section 40.240.510(B)(24).

2. Forest uses and practices as allowed in Section 40.240.510(B)(25).

3. A single-family dwelling necessary for and accessory to a agricultural use upon a demonstration that all of the following conditions exist:

a. The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one (1) or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy the guideline in Section 40.240.430(B)(3)(c)(4).

c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

- (1) Size of the entire farm or ranch, including all land in the same ownership.
- (2) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.
- (3) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(4) ~~Income Capability. Average income~~ The farm or ranch, and all its contiguous parcels, must produce at least \$80,000 in gross annual income in 2020 dollars. This gross annual income amount shall be indexed for inflation on an annual basis using Consumer Price Index data from the US Bureau of Labor Statistics, and the new adjusted amount for each calendar year (calculated from 2020 dollars) will be posted on the Gorge Commission website by January 15 of each year. must be capable of producing at least forty thousand dollars (\$40,000) in gross annual income. This determination can be made using the following formula ~~with periodic adjustments for inflation:~~

$(A)(B)/(C) = I$ where:

- A = Average yield of the commodity per acre or unit of production
- B = Average price of the commodity
- C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
- I = ~~Income capability~~ Average income

- d. Minimum parcel size of forty (40) contiguous acres.
4. Farm labor housing on a parcel with an existing dwelling under the following conditions:
 - a. The proposed housing is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Section 40.240.430(B)(3)(c).
 - b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine (9) months.
 - c. The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.
 5. Agricultural structures, except buildings, in conjunction with a agricultural use.
 6. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to Section 40.240.200.
 7. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsections (B)(8) and (B)(9) of this section.
 8. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are subject to the following additional standards.
 - a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

9. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional standards:

a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The footprint of any individual accessory building shall not exceed one thousand five hundred (1,500) square feet.

c. The height of any individual accessory building shall not exceed twenty-four (24) feet.

10. Home occupations pursuant to Section 40.240.240. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

11. Bed and breakfast inns subject to Section 40.240.250. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

12. Fruit ~~stands~~ and produce stands ~~upon a showing that sales will be limited to products raised on the property and other agriculture properties in the local region.~~

13. Aquaculture.

14. Exploration, development, and production of sand, gravel, and crushed rock as defined by Section 40.240.040, for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands with SMA's pursuant to Sections 40.240.010(B) and 40.240.800, and all applicable federal, state and county standards.

15. Utility facilities necessary for public service upon a showing that:

a. There is no alternative location with less adverse effect on agriculture lands.

b. The size is the minimum necessary to provide the service.

16. Temporary asphalt/batch plant operations related to public road projects, not to exceed six (6) months.

17. Community facilities and nonprofit facilities related to agricultural resource management.

18. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

19. Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

20. Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 40.240.900.

21. Road and railroad construction and reconstruction.

22. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

23. On a parcel of forty (40) acres or greater with an existing dwelling, the temporary use of a ~~mobile-manufactured~~ home or dwelling structure in the case of a family hardship, pursuant to Section 40.240.210.

24. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

25. Docks and boathouses, pursuant to Section 40.240.230.

26. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

27. Disposal sites managed and operated by the Washington State Department of Transportation or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, pursuant to Section 40.240.280.

28. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

40.240.440 Review Uses with Additional Approval Criteria, Large-Scale or Small-Scale Agriculture Designations

The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture, subject to compliance with Sections 40.240.800 through 40.240.900, consistent with Section 40.240.460:

A. A. Construction, reconstruction, or modification of roads, Utility facilities, and railroads necessary for public service upon a showing that:

1. There is no practicable alternative location with less adverse effect on agricultural or forest lands; and
2. The size is the minimum necessary to provide the service.

B. Home occupations in existing residential or accessory structures, subject to Section 40.240.240.

C. Fruit and produce stands, ~~upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.~~

D. Wineries and cideries, in conjunction with an on-site vineyard or orchard viticulture, upon a showing that processing ~~and sales~~ of wine or cider is from grapes fruits harvested grown on the subject farm ~~or in and~~ the local region.

E. Wine or cider sales and tasting rooms, in conjunction with an on-site winery or cidery.

F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

G. Exploration of mineral and geothermal resources subject to Section 40.240. ~~285800~~.

H. Development and production of mineral and geothermal resources, as defined by Section 40.240.040, and pursuant to Section 40.240.800 and all other applicable federal, state and county standards, including those of Section 40.250.022. Type III review procedures specified under Section 40.510.030 shall be required.

I. Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.

- 1 J. Agriculture.
- 2 K. Recreation development, subject to the recreation Intensity Class provisions pursuant to Section 40.240.890.
- 3 L. Boarding of horses, pursuant to Section 40.240.205.
- 4 M. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.
- 5 N. Bed and breakfast inns in single-family dwellings, subject to Section 40.240.250 and provided that the
- 6 residence:
 - 7 1. Is included in the National Register of Historic Places; or
 - 8 2. Is listed on the Washington Heritage State Register ~~of Historic Places~~ maintained by the Washington
 - 9 State Office Department of Archaeology and Historic Preservation.
- 10 O. Nonprofit, environmental learning or research facilities.
- 11 P. Expansion of existing schools or places of worship.
- 12 Q. On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on
- 13 parcels that are contiguous with and have direct access to the Columbia River, subject to Section 40.240.260.
- 14 R. Disposal sites managed and operated by the Washington State Department of Transportation, for earth
- 15 materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance
- 16 activities within the National Scenic Area, pursuant to Section 40.240.280.
- 17 S. Special uses in historic buildings, pursuant to Section 40.240.310.

18 (Amended: Ord. 2006-05-04; Ord. 2020-02-13)

19 **40.240.450 Approval Criteria for Life Estates – Gorge Large-Scale or Small-Scale Agriculture Zones**

20 A landowner who sells or otherwise transfers real property on lands zoned Gorge Large-Scale or Small-Scale
 21 Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract
 22 shall not be considered a parcel as defined in Section 40.240.040. A second dwelling in conjunction with
 23 a gricultural use may be allowed, subject to compliance with Sections 40.240.800 through 40.240.900 and upon
 24 findings that:

- 25 A. The proposed dwelling is in conjunction with a gricultural use, using guidelines from Section
- 26 40.240.430(A)(8).
- 27 B. Upon termination of the life estate, the original or second dwelling shall be removed.

28 (Amended: Ord. 2006-05-04)

29 **40.240.460 Approval Criteria for Specified Review Uses on Lands Zoned Gorge Large-Scale or**
 30 **Small-Scale Agriculture**

31 Uses identified in Section 40.240.440 may be allowed only if they meet both of the following criteria:

- 32 A. The use is compatible with a gricultural uses and would not force a change in or significantly increase the cost
- 33 of accepted a gricultural practices on nearby lands devoted to a gricultural use; and
- 34 B. The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

35 (Amended: Ord. 2006-05-04)

40.240.470 Dimensional Standards

The following dimensional standard provisions shall apply to lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge SMA Agriculture unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

A. All new land divisions shall comply with Section 40.240.370 and all applicable county regulations. Newly created lots shall comply with the following minimum lot size requirements:

1. Gorge Large-Scale Agriculture 80 (GLSA-80), eighty (80) acres.
2. Gorge Large-Scale Agriculture 40 (GLSA-40), forty (40) acres.
3. Gorge Small-Scale Agriculture (GSA), twenty (20) acres, except as provided in 40.240.A.5.
4. Gorge SMA Agriculture (GSA), forty (40) acres for a new residence. New land division shall be permitted in the SMA only when the creation of new parcels facilitates federal acquisition of lands to achieve the policies of the overall Management Plan.
5. On lands designated Large-Scale or Small-Scale Agriculture that include deer and elk winter range or turkey habitat, new parcels shall be 40 acres or larger.

B. Minimum lot width of six hundred sixty (660) feet for newly created lots.

C. No minimum lot depth requirement.

D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road easement.

E. Minimum side setback of two hundred (200) feet for all residential buildings, and twenty-five (25) feet for nonresidential buildings.

F. Minimum street side setback of twenty-five (25) feet for all buildings.

G. Minimum rear setback of two hundred (200) feet for all residential buildings, and twenty-five (25) feet for nonresidential buildings.

H. Setbacks shall also comply with provisions of Sections 40.240.130 and 40.240.150.

I. Maximum height restriction of thirty-five (35) feet for residential structures, unless superseded by scenic review criteria of Section 40.240.800 or 40.240.810.

J. Where larger setbacks are not required by Section 40.240.130, parcels which are nonconforming as to minimum lot size or width and depth requirements may observe building setbacks of fifty (50) feet from all property lines except side setbacks adjacent to streets, which may observe building setbacks of twenty-five (25) feet.

(Amended: Ord. 2006-05-04)

40.240.480 Forest Land Designations

Sections 40.240.140 and 40.240.480 through 40.240.570 shall apply to those areas zoned Gorge Small Woodland and SMA Forest.

(Amended: Ord. 2006-05-04)

40.240.490 Uses Allowed Outright – Forest Land

The uses listed in Section 40.240.120(A) are allowed without review on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.

(Amended: Ord. 2006-05-04)

40.240.500 Uses Allowed through the Expedited Development Review Process – Forest Land

The uses listed in Section 40.240.060 are allowed with review through the expedited development review processes on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.

(Amended: Ord. 2006-05-04)

40.240.510 Review Uses – Forest Land

A. The following uses may be allowed on lands zoned Gorge Small Woodland subject to compliance with Sections 40.240.800 through 40.240.900:

1. ~~On lands designated Gorge Small Woodland, or~~ One (1) single-family dwelling on a legally created and existing parcel upon the parcel's enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one (1) single-family dwelling. In either case, the location of a dwelling shall comply with Sections 40.240.140 and 40.240.540. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture.
2. One (1) single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Section 40.240.430(A)(8). The siting of the dwelling shall comply with Section 40.240.540.
3. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which it was approved has concluded.
4. Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.
5. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ~~for~~ natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) ~~and~~ or activities (e.g., closing and revegetating unused roads, recontouring a bandoned quarries).
6. Structures associated with hunting and fishing operations.
7. Towers and fire stations for forest fire protection.
- ~~8. Agricultural structures, except buildings, in conjunction with an agricultural use, pursuant to Section 40.240.540.~~
- ~~89.~~ Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to Sections 40.240.200 and 40.240.540.
- ~~910.~~ Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsections (A)(11) or (12) of this section.
- ~~101.~~ Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are pursuant to Sections 40.240.540 and 40.240.550, and the following additional standards:
 - a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

~~12.~~ Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel larger than ten (10) acres in size are pursuant to Sections 40.240.540 and 40.240.550 and the following additional standards:

a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The footprint of any individual accessory building shall not exceed one thousand five hundred (1,500) square feet.

c. The height of any individual accessory building shall not exceed twenty-four (24) feet.

~~13.~~ The temporary use of a ~~mobile manufactured~~ home, tiny house on a trailer, or similar structure in the case of a family hardship, subject to Sections 40.240.210, 40.240.540 and 40.240.550.

~~14.~~ A second single-family dwelling for a farm operator's relative, subject to Sections 40.240.140, 40.240.430(A)(9) and 40.240.540.

15. Private roads serving a residence on the subject parcel, subject to Sections 40.240.140 and 40.240.540.

16. Recreation development, subject to Section 40.240.890 and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

~~17. Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.~~

~~18.~~ Agricultural labor housing upon a showing that:

a. The proposed housing is necessary and accessory to a current agricultural use on the subject farm.

b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed nine (9) months.

c. The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

d. The housing is subject to the criteria in 40.240.550 and 40.240.540.

~~19. On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, pursuant to Section 40.240.370. If the designated minimum parcel size is twenty (20) acres, this provision will apply to parcels forty (40) acres in size or larger. Similarly, if the designated minimum parcel size is forty (40) or eighty (80) acres, this provision will apply to parcels eighty (80) acres or larger or one hundred sixty (160) acres or larger, respectively.~~

20. New cultivation, subject to compliance with Sections 40.240.820, and 40.240.840 through 40.240.870.

21. Agricultural structures, except buildings, in conjunction with a agricultural use, including new cultivation, subject to the "Approval Criteria for Fire Protection" in this chapter.

~~22.~~ Life estates on lands Gorge Small Woodland, pursuant to Section 40.240.560.

~~23.~~ Land divisions, subject to Section 40.240.370 ~~(B)(1)~~.

~~24.~~ Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of

temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

~~254.~~ Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, pursuant to Section 40.240.380.

~~265.~~ Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

a. Docks and boathouses, pursuant to Section 40.240.230.

b. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

c. Commercial events on lands designated Large Woodland or Small Woodland, pursuant to Section 40.240.290.

B. The following uses may be allowed on lands zoned Gorge SMA Forest pursuant to Sections 40.240.800 through 40.240.900. The use or development will be sited to minimize the loss of land suitable for the production of forest products:

1. Any use listed in Section 40.240.430(B).

2. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (B)(24) of this section.

3. Railroad and road construction or reconstruction.

4. Exploration, development, and production of sand, gravel, or crushed rock, as defined in Section 40.240.040, for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the SMA, pursuant to Sections 40.240.800 and 40.250.022, and all other applicable federal, state and county standards.

5. Silvicultural nurseries.

6. Utility facilities for public service upon a finding that:

a. There is no alternative location with less adverse effect on forest land; and

b. The size is the minimum necessary to provide the service.

7. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ~~for~~ natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) ~~and~~ or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

8. Fish hatcheries and agricultural facilities.

9. Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 40.240.810.

10. One (1) single-family dwelling on a parcel of forty (40) contiguous acres or larger if an approved forest management plan demonstrates that such dwelling is necessary for and accessory to forest uses. The forest management plan shall demonstrate the following:

a. The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement shall indicate a relationship between ongoing forest management and the need for dwelling on the subject property.

b. The subject parcel ~~has been~~ is enrolled in the state's forest assessment program.

c. A plan for management of the parcel ~~has been~~ is approved by the Washington Department of Natural Resources and the responsible official. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur, estimates of yield, labor, and expenses; and how the dwelling will contribute towards the successful management of the property.

d. ~~The parcel has~~ There are no other dwellings ~~on the parcel~~ that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

e. The dwelling complies with all applicable building code and fire protection guidelines.

f. A declaration ~~has been~~ is signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

11. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsections (B)(12) or (13) of this section.

12. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are subject to the following additional standards.

a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

13. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional standards:

a. The combined footprints of all accessory buildings on a single parcel shall not exceed two thousand five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The footprint of any individual accessory building shall not exceed one thousand five hundred (1,500) square feet.

c. The height of any individual accessory building shall not exceed twenty-four (24) feet.

14. Home occupations pursuant to Section 40.240.240.

15. Temporary portable facility for the processing of forest products.

16. Towers and fire stations for forest fire protection.

17. Community facilities and nonprofit facilities related to forest resource management.

18. Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

19. On a parcel of forty (40) acres or greater with an existing dwelling, the temporary use of a ~~mobile~~ manufactured home or dwelling structure in the case of a family hardship pursuant to Section 40.240.210.

20. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

21. Docks and boathouses, pursuant to Section 40.240.230.

22. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

23. Disposal sites managed and operated by the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, subject to compliance with Section 40.240.280.

24. Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:

a. A stewardship plan pursuant to Section 40.240.510(B)(25)(c) shall be submitted and deemed complete by the responsible official and submitted to the Forest Service for review.

b. Clearing trees for new agricultural use shall be limited to fifteen (15) acres.

c. If the stewardship plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of subsection (B)(24)(d) of this section and pursuant to subsection (B)(24)(i) of this section.

d. After a thirty (30) day public comment period, the Forest Service shall review the stewardship plan using the following criteria:

(1) Scenic Resource guidelines in Sections 40.240.510(B)(25)(d)(1) and (5).

(2) Applicable guidelines of Sections 40.240.800 through 40.240.900.

(3) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(4) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

e. The Forest Service shall send the review statement to the responsible official. The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the responsible official.

f. The responsible official will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.

g. The forest practice portion of the new agricultural use shall not be approved by the State Forestry Department or responsible official until a decision on the new agricultural use is issued by the responsible official.

h. The new agricultural use shall be operational within two (2) years of the time frame described in the approved stewardship plan.

i. New agricultural uses with an approved stewardship plan requiring more than fifteen (15) acres shall attain the final approved size sequentially. After the first fifteen (15) cleared acres are operational, each subsequent clearing shall not occur until the previous clearing is operational.

25. Forest practices in accordance with an approved forest practices application (see Section 40.240.050), and pursuant to Section 40.240.570.

a. The following information, in addition to general site plan requirements in Section 40.240.050, shall be required:

(1) Delineate the following on a recent aerial photo or detailed map:

(a) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo;

(b) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.;

(c) Road and structure construction ~~and~~ or reconstruction location;

(d) Location of proposed rock or aggregate sources;

(e) Major skid trails, landings, and yarding corridors;

(f) Commercial firewood cutting areas; and

(g) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(2) A description of the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(3) A description of how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in Sections 40.240.510(B)(25)(d) and (e).

(4) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(5) Road and structure construction ~~and~~ or reconstruction design.

(6) Existing and proposed rock pit development plans.

(7) A discussion of slash disposal methods.

(8) A reforestation plan as reviewed by the appropriate state forest practices agency.

b. As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.

c. Stewardship Plan Requirements. The following information, in addition to the applicable portions of the forest practice application requirements above, and general site plan requirements shall be provided:

(1) An outline of the long-term goals, proposed operations, and future sustainability of the subject parcel.

(2) A description of the time frame and steps planned to reach the long-term goals.

(3) For forest practices, describe how the proposed activities fit into the long-term goals and sustainability of the parcel and ~~for~~ forest health. The following shall be addressed:

(a) The range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern;

(b) What the resulting tree species, structure, and landscape pattern will be after the proposed activities;

(c) A clear explanation of how a deviation from the applicable guidelines may better achieve forest health objectives; and

(d) A clear explanation of how and why the proposed activities will ~~lead~~ move the forest towards its range of natural viability and result in reaching sustainability, resiliency to disturbances.

(4) For clearing trees for new agricultural use, the following shall be addressed in addition to Sections 40.240.510(B)(25)(c)(1) and (2):

(a) How each NRCS soil unit will be affected by the proposed clearing or treatment;

(b) A clear explanation, based on the needs of the operation, as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in Sections 40.240.570(B)(4)(d)(1) through (4);

(c) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability; and

(d) Evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

d. For forest practices, the following scenic resource guidelines shall apply:

(1) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone.

(2) In the ~~western portion (to White Salmon River) of the~~ SMA Coniferous Woodland Landscape Setting, no more than eight percent (8%) of the composite key viewing area view shed from which the forest practice is topographically visible shall be in created forest openings at one (1) time. The view shed boundaries shall be delineated by the Forest Service. The Forest Service will assist (as available) in calculating and delineating the percentage of the composite key viewing area view shed that is in created forest openings at one (1) time.

(3) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in Sections 40.240.510(B)(25)(e)(1) through (e)(3).

(4) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in Sections 40.240.510(B)(25)(e)(1) through (3).

(5) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table.

(a) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a stewardship plan shall be required.

(b) If the stewardship plan proves that the above guideline is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(6) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from KVAs a key viewing area.

e. Forest practices shall maintain the following in addition to applicable natural resources guidelines in Section 40.240.800:

(1) Silvicultural prescriptions shall maintain the desired natural forest stand structures (trees species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(2) Created forest openings shall be designed as mosaics not to exceed the limits defined as "Desired" in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in Section 40.240.510(B)(12).

(3) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(4) If the treatment is proposed to deviate from the snag and down wood requirements, a stewardship plan shall be required and shall show and prove demonstrate why a deviation from the snag and down wood requirements based on forest health or ecosystem function requirements, a stewardship plan shall be required.

26. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

DESIRED FOREST STRUCTURE AND PATTERN								
<u>1</u>	<u>2</u>	<u>3</u>		<u>4</u>		<u>5</u>	<u>6</u>	<u>7</u>
<u>Vegetation Type[#]</u>	<u>Forest Structure</u> (Average % total canopy closure (cc))	<u>Typical Forest Opening-s Size</u> <u>Disturbance caused</u>		<u>Percent Openings at One Time</u>		<u>Leave Trees</u>	<u>Average Down Wood</u>	<u>Average Snags</u> (Conifers) No. per acre Snags are 20-40 ft in height
		<u>Historic (Natural)</u>	<u>Desired</u>	<u>Historic (Natural)</u>	<u>Desired</u>	<u>Includes all available remnant old forest</u>	<u>Pieces 30 ft long per acre (scattered)</u>	
<u>West Conifer</u>	<u>60-80% canopy closure</u> <u>Understory layer variable (0-60% of total cc)</u>	<u>Variable sizes with mosaic pattern, irregular shapes</u> <u>Mosaic fire 1-100 acres</u> <u>Catastrophic fire over 100 acres</u>	<u>Retain forested character</u> <u>Allow openings up to 15 acres (up to 5 acres in the foreground of KVAs)</u> <u>All openings 1 acre or less on National Forest land and all Open Space LUD</u> <u>Openings retain 15 - 40 % canopy closure</u>	<u>10% (mosaic fire) up to 55% (catastrophic fire)</u> <u>Intense fire return interval is 300 yrs</u>	<u>Not to exceed 8% for West Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting</u> <u>Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings</u>	<u>Leave 15% of existing trees per acre throughout opening and in clumps</u> <u>Include 3 trees per acre of the largest size trees</u>	<u>18 - 25 pieces greater than 20" dbh</u>	<u>10 snags at 10"-20" dbh, and 7 snags greater than 20" dbh</u>
<u>East Conifer</u> <u>(Ponderosa Pine/Douglas fir)</u>	<u>40-80% canopy closure</u> <u>Understory layer less than 25% of total cc</u>	<u>Few Openings due to low intensity fires</u> <u>1/4 to 2 acres</u>	<u>Openings less than 1 acre</u> <u>Openings have 0 - 40% canopy closure</u> <u>Openings widely dispersed</u>	<u>1 -10%</u>	<u>1 - 10%</u> <u>(% by vegetation type)</u>	<u>No leave trees required</u>	<u>3 - 6 pieces greater than 20" dbh</u>	<u>5 snags at 10"-20" dbh and 3 snags greater than 20" dbh</u>
<u>Ponderosa Pine/ Oregon Oak</u>	<u>25-60% canopy closure</u> <u>Understory layer greater than 25% of total cc.</u>	<u>Most natural openings due to poor soil</u> <u>Disturbance openings few</u>	<u>Openings less than 1 acre</u> <u>Openings have 0 - 25% canopy closure</u> <u>Openings widely dispersed</u>	<u>1 -10%</u>	<u>1 - 10%</u> <u>(% by vegetation type)</u>	<u>No leave trees required</u>	<u>1 - 3 pieces greater than 20" dbh</u>	<u>5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh</u> <u>Oak snags can be counted if already dead or partially dead</u>

1

2 # Map available at the Forest Service National Scenic Area Office3 * Does not apply to openings.4 Dbh: Diameter at Breast Height

40.240.520 Review Uses with Additional Approval Criteria for Gorge Small Woodland Designations

The following uses may be allowed on lands designated Gorge Small Woodland, subject to compliance with Sections 40.240.800 through 40.240.900, and consistent with Section 40.240.530:

- A. Construction, reconstruction, or modification of roads. Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources, and (2) the size is the minimum necessary to provide the service.
- B. Home occupations in an existing residence or accessory structure, subject to the guidelines in Section 40.240.240.
- C. Fruit and produce stands, ~~upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.~~
- D. Wineries and cideries, in conjunction with an on-site vineyard or orchard viticulture, upon a showing that processing of wine or cider is from grapes grown fruits harvested on the subject farm ~~or in and~~ the local region.
- E. Wine or cider sales and tasting rooms, in conjunction with an on-site winery or cidery.
- F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- G. Exploration of mineral and geothermal resources, pursuant to Sections 40.240.800 through 40.240.900.
- H. Development, and production of mineral and geothermal resources, as defined by Section 40.240.040, subject to Section 40.240.800 and all other applicable federal, state and county standards, including those of Section 40.250.022. Type III review procedures specified under Section 40.510.030 shall be required.
- I. Aquaculture.
- J. Boarding of horses, pursuant to Section 40.240.205.
- K. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.
- L. Expansion of existing nonprofit group camps, retreats, or conference centers.
- M. Bed and breakfast inns in single-family dwellings, subject to Section 40.240.250 and provided that the residence:
 - 1. Is included in the National Register of Historic Places; or
 - 2. Is listed on the Washington State Heritage Register ~~of Historic Places~~ maintained by the Washington Office Department of Archaeology and Historic Preservation.
- N. Nonprofit, environmental learning or research facilities.
- O. On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, pursuant to Section 40.240.260.
- P. Disposal sites managed and operated by the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the National Scenic Area, pursuant to Section 40.240.280.
- Q. Special uses in historic buildings, pursuant to Section 40.240.310.

(Amended: Ord. 2006-05-04)

40.240.530 Approval Criteria for Specified Review Uses on Lands Zoned Gorge Small Woodland

Uses identified in Section 40.240.520 may be allowed only if they meet the following criteria:

- A. The owners of land designated Gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture, that lies within five hundred (500) feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least ten (10) days to comment prior to a final decision;
- B. The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;
- C. The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands; and
- D. The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and will comply with Section 40.240.540.

(Amended: Ord. 2006-05-04)

40.240.540 Approval Criteria for Fire Protection in Forest Designations

All uses, as specified, shall comply with the following fire safety guidelines within the GMA:

- A. All buildings shall be surrounded by a maintained ~~defensible space~~~~fuel break~~ of at least fifty (50) feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire-resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than twenty-four (24) inches in height). Trees should be spaced greater than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees. Fuel breaks shall be adjusted to account for site slope, to protect riparian vegetation and other resources, or as recommended by local fire districts, conservation districts, or other professionals.
- B. Buildings with plumbed water systems shall install at least one (1) standpipe a minimum of fifty (50) feet from the structure(s).
- C. A pond, stream, tank or sump with storage of not less than one thousand (1,000) gallons, or a well or water system capable of delivering twenty (20) gallons per minute shall be provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.
- D. Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade of twelve (12) percent. Turnouts shall be provided at a minimum of every five hundred (500) feet and at the building site. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the Director of Public Works, local rural fire district, and the Washington Department of Natural Resources.
- E. Within one (1) year of the occupancy of a dwelling, the responsible official shall conduct a review of the development to assure compliance with these guidelines.
- F. ~~Telephone and power~~ Utility supply systems shall be underground whenever possible.
- G. Roofs of structures ~~should~~~~shall~~ be constructed of fire-resistant materials such as metal, fiberglass, or asphalt shingle or tile. Roof materials such as cedar shake and shingle ~~should~~~~shall~~ not be used.
- H. Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be equipped with a spark arrester that includes at least one ~~screened with~~ no coarser than quarter eighth (1/84) inch mesh metal ~~screen~~ that is noncombustible and corrosion resistant ~~and should be equipped with a spark arrester~~.
- I. All structural projections such as balconies, decks and roof gables should be built with fire-resistant materials equivalent to that specified in the International Building Code. Structural projections shall be set back from slopes.

J. Attic openings, soft vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than ~~eighth quarter~~ (1/84) inch mesh metal screen that is noncombustible and corrosion resistant.

K. Proposed uses shall comply with all applicable provisions of Title 15, Fire Prevention, including Chapters 14.05 and 15.13. Section 40.240.540 requirements shall prevail in the event of conflict with these county codes.

(Amended: Ord. 2006-05-04)

40.240.550 Approval Criteria for Siting of Dwellings on Forest Land

The approval of new dwellings and accessory structures on or immediately adjacent to lands within a Forest zone in the GMA shall comply with the following guidelines:

A. The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least two hundred (200) feet from adjacent parcels within the Forest zone. The responsible official may grant a variance to this setback under the provisions of Section 40.240.150.

B. The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing nonforest uses, adjacent dwellings, or land productivity.

C. Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located on gentle slopes and in any case not on slopes which exceed ~~forty thirty~~ percent (43.0%). Dwellings should be set back from slopes. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

D. Grouping proposed development closer to existing development on adjacent lands may be used to minimize impacts on nearby or adjacent forest operations.

(Amended: Ord. 2006-05-04)

40.240.560 Approval Criteria for Life Estates in Gorge Small Woodland

A landowner who sells or otherwise transfers real property on lands zoned Gorge Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Gorge Small Woodland may be allowed, pursuant to Sections 40.240.800 through 40.240.900 and upon findings that:

A. The proposed dwelling is in conjunction with a agricultural use, using Section 40.240.430(A)(9).

~~B. On lands designated Gorge Small Woodland, the~~ proposed dwelling complies with Section 40.240.510(A)(1).

C. Upon termination of the life estate, the original or second dwelling shall be removed.

(Amended: Ord. 2006-05-04)

40.240.570 Dimensional Standards – Forest Land

The following dimensional standard provisions shall apply to lands designated Gorge Small Woodland, Gorge SMA Forest unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

A. All new land divisions shall comply with Section 40.240.370 and applicable county regulations. Newly created lots shall comply with the following minimum lot size requirements:

1. Gorge Small Woodland 40 (GSW-40), forty (40) acres.
2. Gorge Small Woodland 20 (GSW-20), twenty (20) acres, except as provided in 40.240.A.4.
3. Gorge SMA Forest (GSFF), forty (40) acres for a new residence. New land division shall be permitted in the SMA only when the creation of new parcels facilitates federal acquisition of lands to achieve the policies of the overall Management Plan.
4. On lands designated Small Woodland that include deer and elk winter range or turkey habitat, new parcels shall be 40 acres or larger.
- B. Minimum lot width of six hundred sixty (660) feet for newly created lots.
- C. No minimum lot depth requirement.
- D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road easement.
- E. Minimum side setback of two hundred (200) feet for all residential buildings, twenty-five (25) feet for nonresidential buildings.
- F. Minimum street side setback of twenty-five (25) feet for all buildings.
- G. Minimum rear setback of two hundred (200) feet for all residential buildings, twenty-five (25) feet for nonresidential buildings.
- H. Setbacks shall also comply with Sections 40.240.130.
- I. Medium height restriction of thirty-five (35) feet for residential structures, unless superseded by scenic review criteria of Section 40.240.800 or 40.240.900.

(Amended: Ord. 2006-05-04)

40.240.580 Open Space Designations

Sections 40.240.580 through 40.240.610 shall apply to those areas zoned Gorge Open Space and Gorge SMA Open Space on the Scenic Area Land Use Designation Map.

(Amended: Ord. 2006-05-04)

40.240.590 Uses Allowed Outright – Open Space

The uses listed in Section 40.240.120(B) are allowed without review on lands designated Open Space.

(Amended: Ord. 2006-05-04)

40.240.600 Uses Allowed Through the Expedited Development Review Process – Open Space

The uses listed in Section 40.240.260 may be allowed with review through the expedited development review process on lands designated Open Space.

(Amended: Ord. 2006-05-04)

40.240.610 Review Uses – Open Space

A. The following uses may be allowed on all lands zoned Gorge GMA Open Space subject to compliance with Sections 40.240.800 through 40.240.900:

1. Low-intensity recreation, subject to Section 40.240.900(B).
2. Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources. Such land divisions shall be subject to Section 40.240.370. There shall be no minimum size requirement for newly created lots.

3. ~~Repair, maintenance, operation and improvement~~ Improvement, not including expansion of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.

4. Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

5. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and ~~for~~ natural resources pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) ~~and~~ or activities (e.g., closing and revegetating unused roads, recontouring a abandoned quarries).

6. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

7. Lot line adjustments pursuant to Section 40.240.380.

B. The following uses may be allowed on lands designated Gorge GMA Open Space – State Parks Recreation Areas within publicly owned lands:

1. All uses listed in Section 40.240.610(A);

2. Fish and wildlife management uses conducted by federal, state or tribal resource agencies;

3. Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district;

4. Harvesting of wild crops, with written approval from the public agency owning or operating the land; and

5. Educational or scientific research.

C. The following uses may be allowed on lands zoned Gorge SMA Open Space, subject to compliance with Sections 40.240.800 through 40.240.900 and when consistent with an open space plan approved by the Forest Service pursuant to subsection (E) of this section:

1. Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

2. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation ~~and~~ or natural resources, pursuant to Section 40.240.270. These projects may include vegetation management and forest practices (pursuant to Section 40.240.510(B)(25)) for the restoration of forest health, new structures (e.g., fish ladders, sediment barriers) ~~and~~ or activities (e.g., closing and revegetating unused roads, recontouring a abandoned quarries).

3. Low intensity recreation and uses and developments, including educational and interpretive facilities, consistent with Section 40.240.900.

4. Utility facilities for public service upon a showing that:

a. There is no alternative location with less adverse effect on Open Space land.

b. The size is the minimum necessary to provide the service.

5. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

(Amended: Ord. 2008-06-02)

D. An SMA open space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The open space plan shall include the following:

1. Direction for resource protection, enhancement, and management;
2. Review of existing uses to determine compatibility with open space values; and
3. Consultation with members of the public and with agency and resource specialists.

E. Subject to review, treatment of noxious weeds shall be permitted without completion of an SMA open space plan, provided the following criteria are met:

1. The infestation of noxious weeds is recent and eradication is possible; and
2. Delaying or deferring treatment could cause widespread or significant adverse impacts to one (1) or more of the following resources:
 - a. Displacement of native and traditionally gathered plants; or
 - b. Degradation of wildlife habitat and forage; or
 - c. Degradation or loss of agricultural uses of land, such as cropland or livestock forage; or
 - d. Limitation of recreational uses; or
 - e. For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

(Amended: Ord. 2006-05-04)

40.240.620 Residential Land Designations

Sections 40.240.620 through 40.240.670 shall apply to those areas designated Gorge Residential on the Scenic Area Land Use Designation Map.

(Amended: Ord. 2006-05-04)

40.240.630 Uses Allowed Outright – Residential Land

The uses listed in Section 40.240.120(A) are allowed without review on lands designated Residential.

(Amended: Ord. 2006-05-04)

40.240.640 Uses Allowed Through the Expedited Development Review Process – Residential Land

The uses listed in Section 40.240.060 are allowed with review through the expedited development review process on lands designated Residential.

(Amended: Ord. 2006-05-04)

40.240.650 Review Uses – Residential Land

The following uses may be allowed on lands in the GMA zoned Gorge Residential, subject to compliance with Sections 40.240.800 through 40.240.900:

A. One (1) single-family dwelling per legally created and existing parcel.

1. If the subject parcel is located adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture, the use shall comply with the buffer and notification requirements of Section 40.240.130, and the notification requirements of Section 40.240.430(A)(1 ~~56~~)(e); and

2. If the subject parcel is located adjacent to lands zoned Gorge Small Woodland, the use shall comply with the buffer and notification requirements of Section 40.240.140, and the notification requirements of Section 40.240.530(A), and the placement of a dwelling shall also comply with Section 40.240.540.

B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsection (C) of this section.

C. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel are subject to the following additional standards:

1. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

2. The height of any individual accessory building shall not exceed twenty-four (24) feet.

D. The temporary use of a ~~mobile-manufactured~~ home, tiny house on a trailer, or similar structure in the case of a family hardship, pursuant to Section 40.240.210.

~~E. Construction or reconstruction of roads.~~

~~F. On parcels ten (10) acres or larger in the five (5) acre Residential designation, or twenty (20) acres or larger in the ten (10) acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, pursuant to Section 40.240.370(B).~~

~~E.G.~~ New cultivation, subject to compliance with Sections 40.240.820 and 40.240.840 through 40.240.870.

~~F.~~ Agricultural structures, in conjunction with agricultural use, including new cultivation.

~~H.G.~~ Land divisions, pursuant to Section 40.240.680 and Section 40.240.370 ~~(B)~~.

~~H.H.~~ Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions pursuant to Section 40.240.380.

~~I.I.~~ Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources. These projects may include new structures and/or activities, pursuant to Section 40.240.270.

~~K.~~ Agricultural structures, except buildings, in conjunction with agricultural use.

~~L.J.~~ Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to standards in Section 40.240.200.

~~M.K.~~ Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

~~N.L.~~ Docks and boathouses, pursuant to Section 40.240.230.

~~O.M.~~ Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

~~P.N.~~ Commercial events, pursuant to Section 40.240.290.

(Amended: Ord. 2006-05-04)

40.240.660 Review Uses with Additional Approval Criteria – Residential Land

The following uses may be allowed on lands in the GMA zoned Gorge Residential subject to compliance with Sections 40.240.800 through 40.240.900, and Section 40.240.670:

- 1 A. Accredited child care centers on land designated five (5) acre Residential. A child care center may be allowed
- 2 in Residential zones within an existing church or community building.
- 3 B. Schools within an existing church or community building.
- 4 C. Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this
- 5 section, "existing schools" means public schools that existed prior to adoption of the original Management Plan on
- 6 October 15, 1991.
- 7 D. Construction and reconstruction of roads. Utility facilities and railroads.
- 8 E. Home occupations pursuant to Section 40.240.240.
- 9 F. Fire stations.
- 10 G. Recreation development, subject to compliance with Section 40.240.890.
- 11 H. Community parks and playgrounds, ~~consistent with the guidelines of the National Park and Recreation~~
- 12 ~~Society regarding the need for such facilities.~~
- 13 ~~I. Bed and breakfast inns in single family dwellings located on lands designated residential pursuant to Section~~
- 14 ~~40.240.250.~~
- 15 I. Overnight accommodations in single family dwellings located on lands designated 5-acre Residential or 10-
- 16 acre Residential, subject to the guidelines in 40.240.245.
- 17 J. Wineries and cideries, in conjunction with an on-site ~~viticulture vineyard or orchard~~, upon a showing that
- 18 processing of wine or cider is from ~~grapes grown~~ fruits harvested on the subject farm ~~or in and~~ the local region.
- 19 K. Wine or cider sales and tasting rooms in conjunction with an on-site winery or cidery. The use shall comply
- 20 with Section 40.240.240, with the following exceptions:
- 21 1. The use may employ an unlimited number of outside employees.
- 22 2. The wine or cider sales and tasting room may include interior and/or exterior space, provided the
- 23 combined interior and exterior spaces shall not exceed one thousand (1,000) square feet.
- 24 3. The interior space may be located in an existing building or in a new building or addition to an existing
- 25 building constructed for the primary purpose of housing the wine or cider sales and tasting room.
- 26 4. The exterior space may be a veranda, patio, or other similar type of structure.
- 27 L. Small-scale fishing support and fish processing operation on parcels that are contiguous with and have direct
- 28 access to the Columbia River, pursuant to Section 40.240.260.
- 29 M. Special uses in historic buildings, pursuant to Section 40.240.310.

30 (Amended: Ord. 2006-05-04)

31 **40.240.670 Approval Criteria for Specified Review Uses on Lands Zoned Residential**

32 The uses identified in Section 40.240.440-660 may be allowed only if they meet CCC40.340.800 through

33 40.240.900 and all of the following:

- 34 A. The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts
- 35 associated with the visual character of the area, traffic generation, and noise, dust and odors.
- 36 B. The proposed use will not require public services other than those existing or approved for the area.

C. If the subject parcel is located within five hundred (500) feet of lands zoned Gorge Large-Scale or Small-Scale Agriculture, Gorge Small Woodland, new buildings associated with the proposed use shall comply with Section 40.240.130.

D. If the subject parcel is located within five hundred (500) feet of lands designated Gorge Small Woodland, new buildings associated with the proposed use shall comply with Section 40.240.540.

(Amended: Ord. 2006-05-04)

40.240.680 Dimensional Standards

The following dimensional standard provisions shall apply to lands zoned Gorge Residential unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

A. All new land divisions shall comply with Section 40.240.370 ~~(B)~~ and applicable county regulations. Newly created lots shall comply with the following minimum lot size requirements:

1. Gorge Residential 5 (GR-5), five (5) acres;
2. Gorge Residential 10 (GR-10), ten (10) acres.

B. Minimum lot width of one hundred forty (140) feet for newly created lots, unless required otherwise by the Clark County Fire Marshal.

C. No minimum lot depth requirement.

D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road easement.

E. Minimum side setback of twenty (20) feet for all residential and accessory buildings, fifty (50) feet for buildings used for agricultural purposes.

F. Minimum rear setback of twenty (20) feet for all buildings.

G. Setbacks shall also comply with provisions of Sections 40.240.130 and 40.240.150.

H. Maximum height restriction of thirty-five (35) feet for residential structures, unless superseded by scenic review criteria of Section 40.240.800 or 40.240.810.

I. Where larger setbacks are not required by Section 40.240.130, parcels which are nonconforming as to minimum lot size or width and depth requirements may observe building setbacks of fifty (50) feet from all property lines except side setbacks adjacent to streets, which may observe building setbacks of twenty-five (25) feet.

(Amended: Ord. 2006-05-04)

40.240.690 Recreation

Sections 40.240.690 through 40.240.730 shall apply to those areas zoned Gorge Public Recreation on the Scenic Area Land Use Map.

(Amended: Ord. 2006-05-04)

40.240.700 Uses Allowed Outright – Public Recreation

The uses listed in Section 40.240.120(A) are allowed without review on lands designated Public Recreation.

(Amended: Ord. 2006-05-04)

40.240.710 Uses Allowed Through the Expedited Development Review Process – Public Recreation

The uses listed in Section 40.240.060 are allowed with review through the expedited review process on lands designated Public Recreation.

(Amended: Ord. 2006-05-04)

40.240.720 Review Uses – Public Recreation

A. The following uses may be allowed on lands in the GMA zoned Gorge Public Recreation, subject to compliance with Sections 40.240.890(D)(3) through (7):

1. Publicly owned, resource-based recreation uses consistent with Section 40.240.890;
2. Commercial uses and non-resource-based recreation uses that are part of an existing or approved, resource-based public recreation use consistent with guidelines contained in this section the following:

a. Uses other than those providing public recreation opportunities shall be allowed if they do not interfere with existing or approved recreation uses on the subject site or adjacent lands, and do not permanently commit the site to non-recreation uses.

b. Commercial uses shall be allowed if they are part of an existing or approved public recreation use and are consistent with the following:

(1) Private concessions and other commercial uses at public recreation sites shall be allowed pursuant to adopted policies of the public agency owning or managing the site. If a different agency manages the site, that agency's policies shall apply, unless superseded by provisions of the owning agency's policies.

(2) For commercial recreation sites and public recreation sites not owned or managed by a public park agency with adopted concession policies, the following policies shall apply:

(a) Retail sales at campgrounds shall be limited to camping supplies for overnight guests in dedicated space within the registration or central office building.

(b) Private concessions in permanent structures shall be limited to one structure per park site. Sales shall be limited to those items necessary for enjoyment and use of recreation opportunities at the site, including food and beverages and recreation equipment rental.

(c) Mobile vendors may be permitted, subject to approval by the responsible official. This review shall address solid waste disposal, visual impacts of signs, traffic circulation, and safety. Such uses shall be limited to the term of the recreation season, and sales shall be limited to food and beverages and recreation equipment rental.; and

3. New cultivation, subject to compliance with Sections 40.240.840 through 40.240.870.

B. The following uses may be allowed on lands in the GMA zoned Gorge Public Recreation, subject to compliance with Section 40.240.730:

1. One (1) single-family dwelling for each existing parcel legally created prior to a adoption of the first Management Plan on October 15, 1991. Exceptions may be considered only upon demonstration that more than one (1) residence is necessary for management of a public park.
2. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Section 40.240.720(B)(3).
3. Accessory buildings larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel are subject to the following additional standards:

a. The combined footprints of all accessory buildings on a single parcel shall not exceed one thousand five hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

b. The height of any individual accessory building shall not exceed twenty-four (24) feet.

4. Agricultural structures, ~~except buildings,~~ in conjunction with agricultural use.

5. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years.

6. Utility transmission, transportation, communication and public works facilities.

7. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation ~~and~~ or natural resources, pursuant to Section 40.240.270.

8. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.

9. Docks and boathouses, pursuant to Section 40.240.230.

10. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.

11. Commercial events, pursuant to Section 40.240.290.

(Amended: Ord. 2007-11-13)

C. Land divisions, subject to compliance with Section 40.240.730(C) and 40.240.370.

D. Special uses in historic buildings, pursuant to Section 40.240.310.

(Amended: Ord. 2006-05-04)

40.240.730 Approval Criteria for Non-Recreation Uses in Gorge Public Recreation Zones

The uses identified in Section 40.240.720(B) may be allowed only if they meet the following:

A. The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include on-site buffers, seasonal or temporary closures during peak recreation use periods, etc.

B. The proposed use will not permanently commit the majority of the site to a nonrecreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

C. Land divisions may be allowed consistent with Section 40.240.370 ~~(B)~~ and if the applicant has demonstrated upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

(Amended: Ord. 2006-05-04)

ARTICLE VI. RESOURCE PROTECTION GUIDELINES

40.240.800 General Management Area Scenic Review Criteria

The following scenic review guidelines shall apply to all review uses in the GMA:

A. All Review Uses.

1. New ~~buildings and roads~~ development shall be sited and designed to retain the existing topography and reduce necessary grading to the maximum extent practicable.

2. New buildings and expansion of existing development shall be compatible with the general scale, (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this guideline. Findings addressing this guideline shall include but are not limited to:

a. Application of the landscape setting design guidelines, if applicable.

b. A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

c. Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:

(1) All finished above ground square footage;

(2) Total area of covered decks and porches;

(3) Attached garages

(4) Daylight basements

(5) Breezeways, if the breezeway shares a wall with an adjacent building

(6) Dimensions, based on information from the application or on Assessor's records

d. An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

3. Project applicants and owners shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Section 40.240.800.

~~4. A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than sixty (60) square feet in area and less than or equal to ten (10) feet in height, as measured at the roof peak. The site plan and application shall include all information required in Section 40.240.050. Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key-viewing areas guidelines in this chapter.~~

~~5. For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.~~

~~6. For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable. At a minimum, such reclamation plans shall include:~~

~~a. A map of the site, at a scale of one (1) inch equals two hundred (200) feet (1:2400), or a scale providing greater detail, with ten (10) foot contour intervals or less, showing pre-mining existing grades and post mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.~~

~~b. Cross-sectional drawings of the site showing pre-mining and post-grades. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.~~

~~c. Description of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.~~

~~d.—Description of drainage/erosion control features to be employed for the duration of the use.~~

~~e.—A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.~~

~~7.—All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have thirty (30) calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:~~

~~a.—Whether the proposed mining is subject to state reclamation permit requirements;~~

~~b.—If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and~~

~~c.—For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.~~

B. Key Viewing Areas.

1. The guidelines in this section shall apply to proposed development on sites topographically visible from key viewing areas.

2. Each development shall be visually subordinate to its setting as seen visible from key viewing areas. New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, rare plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, new development siting shall comply with this guideline to the maximum extent practicable.

3. Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

~~4.—The extent and type of a determination of conditions applied to the potential visual impact of a proposed new development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from key viewing areas.~~

~~a.—Decisions shall include written findings addressing the following factors influencing potential visual impact, including but not limited to:~~

~~a.(1)~~ The amount of area of the building site exposed to key viewing areas;

~~b.(2)~~ The degree of existing vegetation providing screening;

~~c.(3)~~ The distance from the building site to the key viewing areas from which it is visible;

~~d.(4)~~ The number of key viewing areas from which it is visible; and

~~e.(5)~~ The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

4.b. The extent and type of Conditions may be applied to various elements of a proposed development to ensure they are visually subordinate achieve visual subordination to their landscape setting shall be proportionate to its potential visual impacts as seen visible from key viewing areas. including but not limited to: Conditions may include, and shall be applied, using the following priorities:

a. Screening by topography

~~b.(4)~~ Siting (location of development on the subject property, building orientation, and other elements);

~~c.(2)~~ Retention of existing vegetation on the applicant's property;

~~d.(3)~~ Design (color, reflectivity, size, shape, height, architectural and design details and other elements); and

~~e.(4)~~ New landscaping on the applicant's property.

f. New berms or other recontouring on the applicant's property, where consistent with other applicable provisions.

~~5. New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.~~

~~56.~~ New development shall be sited using existing topography and ~~or~~ existing vegetation as needed to achieve visual subordination from key viewing areas.

~~67.~~ Existing tree cover screening proposed development from key viewing areas shall be retained as specified in Section 40.240.800(C).

~~78.~~ The silhouette of new buildings shall remain below the skyline of a bluff cliff or ridge as seen visible from key viewing areas. ~~Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use, and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.~~

~~9. An alteration to a building built prior to November 17, 1986, which already protrudes above the skyline of a bluff, cliff or ridge as seen from a key viewing area, may itself protrude above the skyline if:~~

~~a. The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and~~

~~b. There is no practicable alternative means of altering the building without increasing the protrusion.~~

~~810.~~ The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

a. New landscaping (including new earth berms) shall be required only when application of all other available guidelines in Section 40.240.800 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.

b. If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five (5) years or less from the commencement of construction. If after five years the vegetation has not achieved a size sufficient to screen the development, additional screening may be required by the responsible official to make the development visually subordinate.

c. Unless as specified otherwise by provisions in Section 40.240.800, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

d. The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in Section 40.240.800(C), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

~~944.~~ Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest Gorge Small Woodland shall meet both scenic guidelines and fuel break requirements in Section 40.240.540(A).

~~102.~~ Unless expressly exempted by other provisions in Section 40.240.800, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors ~~or list of acceptable colors approved by the responsible official~~ shall be included as a condition of approval. ~~The Scenic Resources Implementation Handbook will include a recommended palette of colors.~~

~~113.~~ The exterior of buildings on lands seen from key viewing areas shall be composed of nonreflective materials or materials with low reflectivity, ~~unless the structure would be fully screened from all key viewing areas by existing topographic features. Continuous surfaces of glass shall be limited to ensure visual subordination.~~ The *Scenic Resources Implementation Handbook* will include a list of recommended exterior materials. ~~These recommended materials and screening methods, other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square-footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.~~

~~14.~~ In addition to the site plan requirements in Section 40.240.050, applications for all buildings visible from key viewing areas shall include a description of the proposed building(s') height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used, number, size, locations of plantings, and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

~~15.~~ For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to Section 40.240.800(A)(6) and subsection (B)(4) of this section, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.

~~126.~~ Any exterior lighting shall be ~~directed downward and~~ sited, ~~hooded and limited in intensity,~~ shielded, ~~such or hooded in a manner that it is not prevents lights from being~~ highly visible from key viewing areas ~~and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.~~ Shielding and hooding materials shall be composed of nonreflective, opaque materials.

~~137.~~ Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth tone colors found at the specific site or in the surrounding landscape. The specific colors ~~or list or acceptable colors approved by the responsible official~~ shall be included as a condition of approval. ~~The Scenic Resources Implementation Handbook will include a recommended palette of colors.~~

~~148.~~ Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands ~~visible seen~~ from key viewing areas. To be eligible for such exemption, the structure must be included in or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

~~159.~~ New main lines on lands visible from key viewing areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is

not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

~~1620.~~ New communication facilities (antennas, dishes, etc.) on lands visible from key viewing areas, which require an open and unobstructed site, shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

~~1724.~~ New communications facilities may protrude above a skyline visible from a key viewing area only upon demonstration that:

- a. The facility is necessary for public service;
- b. The break in the skyline is visible ~~seen~~ only in the background; and
- c. The break in the skyline is the minimum necessary to provide the service.

~~1822.~~ Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:

- a. The facility is necessary for public service; and
- b. The break in the skyline is the minimum necessary to provide the service.

~~1923. Except for water dependent development and for water related recreation development, development shall be set back one hundred (100) feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and one hundred (100) feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.~~

~~204.~~ New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of thirty percent (30%). A variance may be authorized if the property would be rendered unbuildable through the application of this guideline. In determining the slope, the average percent slope of the proposed building site-footprint shall be used.

~~215.~~ Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

~~226.~~ All proposed structural development involving more than two hundred (200) cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the responsible official for compliance with key viewing area policies. The grading plan shall include the following:

- a. A map of the site, prepared at a scale of one (1) inch equals two hundred (200) feet (1:2,400), or a scale providing greater detail, with contour intervals of at least five (5) feet, including:
 - (1) Existing and proposed final grades;
 - (2) Location of all areas to be graded, with cut banks and fill slopes delineated; and
 - (3) Estimated dimensions of graded areas.
- b. A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
 - (1) Its purpose;
 - (2) An estimate of the total volume of material to be moved;

- (3) The height of all cut banks and fill slopes;
- (4) Provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
- (5) A description of all plant materials used to revegetated exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
- (6) A description of any other interim or permanent erosion control measures to be utilized.

~~27. Expansion of existing quarries and new production and/or development of mineral resources proposed on sites within the CRGNSA area more than three (3) miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:~~

- ~~a. The site plan requirements for such proposals pursuant to this chapter have been met.~~
- ~~b. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc., associated with the use would be visually subordinate as seen from any key viewing areas.~~
- ~~c. A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved pursuant to Section 40.240.800(A)(7).~~
- ~~d. A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed activities from key viewing areas, including:~~
 - ~~(1) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible;~~
 - ~~(2) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas;~~
 - ~~(3) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible;~~
 - ~~(4) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible;~~
 - ~~(5) The degree to which potentially visible minimum surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations; and~~
 - ~~(6) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc., and appropriate time frames to achieve such results, including winter screening considerations.~~

~~28. Unless addressed by subsection (B)(26) of this section, new production and/or development of mineral resources may be allowed upon a demonstration that:~~

- ~~a. The site plan requirements for such proposals pursuant to this section have been met;~~
- ~~b. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area; and~~
- ~~c. A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Section 40.240.800(A)(7).~~

~~29. An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than three (3) miles from the nearest visible key viewing area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed three (3) years beyond the date of approval.~~

~~30. An interim time period to achieve compliance with full screening requirements for new quarries located less than three (3) miles from the nearest visible key viewing area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed one (1) year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).~~

(Amended: Ord. 2006-08-21; Ord. 2008-06-02)

C. All review uses within the following landscape settings, as delineated by the Columbia River Gorge Management Plan Landscape Settings map, shall comply with the following applicable guidelines:

1. Pastoral.

a. Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.

b. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(1) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(3) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the setting. ~~or commonly found in the area. Such Examples of native species appropriate for the area are identified in the Scenic Implementation Handbook, include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).~~

(4) At least one-quarter (1/4) of any trees planted for screening shall be coniferous for winter screening. Variances may be granted to this guideline when development is directly adjacent or adjoining a landscape setting where coniferous trees are not common or appropriate (as identified in the Scenic Implementation Handbook), and tree species ultimately selected for winter screening are natives characteristic to that setting.

c. Compatible recreation uses include resource-based recreation uses of a very low- or low-intensity nature (as defined by Section 40.240.890), occurring infrequently in the landscape.

2. Coniferous Woodland.

a. Structure height shall remain below the forest canopy level.

b. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(1) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

(2) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the setting. Examples of native species appropriate for the area are identified in the Scenic Implementation Handbook. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf

~~maple, red alder, ponderosa, pine and Oregon white oak, and various native willows (for riparian areas).~~

(3) At least one-half (1/2) of any trees planted for screening purposes shall be coniferous to provide winter screening.

c. Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

3. Rural Residential.

a. Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

b. In portions of this setting visible from key viewing areas the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(1) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(3) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the setting or ~~commonly found species identified~~ in the Scenic Implementation Handbook as appropriate for the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(4) At least ~~half one-quarter~~ (1/24) of any trees planted for screening purposes shall be coniferous to provide winter screening.

c. Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses (such as scenic overlooks).

4. Rural Residential/Pastoral.

a. New development in this setting shall meet the design guidelines for both the Rural Residential setting and the more rural Pastoral setting with which it is combined unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

b. In the event of a possible conflict between the guidelines, the guidelines for the more rural Pastoral setting shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

c. Compatible recreation uses should be limited to very low- and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

5. River Bottomlands.

a. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(1) Except as is necessary for site development or safety purposes, existing tree cover screening the development from key viewing areas shall be retained.

(2) At least one-half (1/2) of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments ~~is~~ are encouraged to maximize the percentage of planted screening vegetation native to this setting. ~~Such species include: black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.~~

(3) At least one-quarter (1/4) of any trees planted for screening purposes shall be coniferous for winter screening. Variances may be granted to this guideline when development is directly adjacent or adjoining a landscape setting where coniferous trees are not common or appropriate (as identified in the Scenic Implementation Handbook), and tree species ultimately selected for winter screening are natives characteristic to that setting.

b. Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible. In other River Bottomland areas, nodes of moderate- ~~intensity and/~~ or high-intensity recreation uses may be compatible; provided, that:

- (1) Their designs emphasize retention ~~and/~~ or enhancement of native riparian communities;
- (2) Structures and parking areas are visually subordinate; and
- (3) They are separated from other areas of concentrated recreation usage by stretches of natural appearing shoreline and adjacent uplands.

D. All review uses within scenic travel corridors shall comply with the following applicable guidelines:

1. For the purposes of implementing this section, the immediate foreground of a scenic travel corridor shall include those lands within one-quarter (1/4) mile of the edge of pavement of the Washington State Route 14.

2. All new buildings and alterations to existing buildings, ~~except in a Rural Center designation (village-landscape setting),~~ shall be set back at least one hundred (100) feet from the edge of pavement of Washington State Route 14 (SR-14). A variance to this setback requirement may be granted pursuant to Section 40.240.150. All new parking lots and expansions of existing parking lots shall be set back at least one hundred (100) feet from the edge of pavement of SR-14, to the maximum extent practicable.

3. Additions to existing buildings or expansion of existing parking lots located within one hundred (100) feet of the edge of pavement of a SR-14 shall comply with subsection (D)(2) of this section to the maximum extent practicable.

4. All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

a. An evaluation of potential visual impacts of the proposed project as visible ~~seen~~ from any key viewing area;

b. An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.

5. When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the *Columbia River Gorge National Scenic Area Corridor Visual Inventory* prepared in April, 1990.

6. New exploration, development (extraction or excavation), and production of mineral resources ~~production and/or development of mineral resources~~ proposed within one-quarter (1/4) mile of the edge of pavement of SR-14 may be allowed upon a demonstration that full visual screening of the site from SR-14 can be achieved by use of existing topographic features or existing vegetation designed to be retained through the

planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over seventy-five percent (75%) of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within one hundred (100) feet of SR-14, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Section 40.240.~~285.E800(B)(30)~~.

7. Expansion of existing quarries may be allowed pursuant to Section 40.240.~~285.B800(B)(27)~~. Compliance with visual subordination requirements shall be achieved within time frames specified in Section 40.240.~~285.D800(B)(29)~~.

(Amended: Ord. 2006-05-04; Ord. 2008-06-02)

40.240.810 Special Management Area Scenic Review Criteria

A. SMA Design Guidelines Based on Landscape Settings.

The following guidelines apply to all lands within SMA landscape settings regardless of visibility from key viewing areas (includes areas ~~visible seen~~ from key viewing areas as well as areas not ~~visible seen~~ from key viewing areas):

1. Pastoral. Pastoral areas shall retain the overall appearance of an agricultural landscape.

a. The use of plant species ~~common native~~ to the landscape setting. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area shall be encouraged. The use of agricultural plant species in rows as commonly found in the landscape setting is also encouraged.

2. Coniferous Woodlands areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland landscape.

a. Buildings in the Coniferous Woodland landscape setting ~~designed shall be encouraged~~ to have a vertical overall appearance shall be encouraged.

b. Use of plant species native to the landscape setting shall be encouraged. Examples of native species are identified in the Scenic Implementation Handbook as Where non-native plants are used, they shall have native appearing characteristics.

3. River Bottomlands. River bottomlands shall retain the overall visual character of a floodplain and associated islands.

a. Buildings shall have an overall horizontal appearance in areas with little tree cover.

b. Use of plant species native to the landscape setting. Examples of native species are identified in the Scenic Implementation Handbook as appropriate to the area shall be encouraged. Where non-native plants are used, they shall have native appearing characteristics.

B. SMA Guidelines for Development and Uses Visible from Key Viewing Areas.

1. The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

2. New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.

3. In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

4. Proposed developments or land use shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

5. The required SMA scenic standards for all development and uses are summarized below in Table 40.240.810-1.

6. The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

a. Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to the following:

- (1) Amount of area of the building site exposed to key viewing areas;
- (2) Degree of existing vegetation providing screening;
- (3) Distance from the building site to the key viewing areas from which it is visible;
- (4) Number of key viewing areas from which it is visible; and
- (5) Linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas such as roads).

Table 40.240.810-1. Required SMA Scenic Standards

Landscape Setting	Land Use Designation	Scenic Standard
Coniferous Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Coniferous Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Residential	Residential	Visually Subordinate
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

b. Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for their setting as visible ~~seen~~ from key viewing areas, including but not limited to:

- (1) Siting (location of development on the subject property, building orientation, and other elements);
- (2) Retention of existing vegetation;
- (3) Design (form, line, color, texture reflectivity, size, shape, height, architectural and design details and other elements); and
- (4) New landscaping.

7. Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, ~~rare sensitive~~ plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.
8. Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as ~~visible seen~~ from key viewing areas.
9. Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.
10. The following guidelines shall apply to new landscaping used to screen development from key viewing areas:
 - a. New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
 - b. If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five (5) years or less from the commencement of construction.
 - c. Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.
 - d. The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).
11. Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting.
12. The exterior of structures on lands seen from key viewing areas shall be composed of nonreflective materials or materials with low reflectivity. ~~The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*.~~ Continuous surfaces of glass ~~unscreened from key viewing areas~~ shall be limited to ensure meeting the scenic standard. ~~Recommended square footage limitations for such surfaces will be provided for guidance in the *The Scenic Resources Implementation Handbook* includes a list of recommended exterior materials and screening methods.~~
13. Any exterior lighting shall be sited, limited in intensity, and shielded or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting except for road lighting necessary for safety purposes.
14. Seasonal lighting displays ~~shall may~~ be permitted on a temporary basis, not to exceed three (3) months² duration.

15. New buildings shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this guideline. Findings addressing this guideline shall include but are not limited to:

a. Application of the landscape setting design guidelines, if applicable.

b. A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.

c. Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:

(1) All finished above ground square footage;

(2) Total area of covered decks and porches;

(3) Attached garages

(4) Daylight basements

(5) Breezeways, if the breezeway shares a wall with an adjacent building

(6) Dimensions, based on information from the application or on Assessor's records

d. An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

(Amended: Ord. 2008-06-02)

C. SMA Guidelines for Key Viewing Area Foregrounds and Scenic Routes.

1. All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

2. Scenic highway corridor strategies shall be ~~developed and~~ implemented for Washington State Route 14 (SR-14). For SR-14 this involves ongoing implementation (and possible updating) of the associated existing documents.

3. The goals of scenic corridor strategies shall include: (a) providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and (b) creating design continuity for the highway corridor within the National Scenic Area. Corridor strategies shall, at minimum, include design guidelines (e.g., materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project planning and development process.

4. The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a river, road or trail key viewing area. These guidelines apply in addition to applicable guidelines of Section 40.240.810(B).

a. The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject key viewing area. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in Section 40.240.810(B) and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

b. Findings must evaluate the following:

- (1) The limiting factors to meeting the required scenic standard and ~~for~~ applicable guidelines from Section 40.240.810(B);
 - (2) Reduction in project size;
 - (3) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening; and
 - (4) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.
- c. Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as ~~seen~~ visible from the foreground of key viewing areas:
- (1) Form and line design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.
 - (2) Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.
 - (3) Texture borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.
 - (4) Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line, color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.
5. Right-of-way vegetation shall be managed to minimize visual impact of clearing and other vegetation removal as visible ~~seen~~ from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.
6. Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.
- D. SMA Guidelines for Areas Not Visible ~~Seen~~ from Key Viewing Areas.
1. Unless expressly exempted by other provisions in this chapter, colors of structures on sites not visible from key viewing areas shall be dark earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from other recommended palette of colors included in the *Scenic Resources Implementation Handbook*.
 2. New buildings shall be compatible with the general scale of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable. New buildings that are 1,500 square feet or less are exempt from this guideline. Findings addressing this guideline shall include but are not limited to:
 - a. Application of the landscape setting design guidelines, if applicable.
 - b. A defined study area surrounding the development that includes at least ten existing buildings, not including existing buildings within urban areas or outside the National Scenic Area.
 - c. Individual evaluations of scale for each separate proposed building in the application and each separate building in the study area, including:

(1) All finished above ground square footage;

(2) Total area of covered decks and porches;

(3) Attached garages

(4) Daylight basements

(5) Breezeways, if the breezeway shares a wall with an adjacent building

(6) Dimensions, based on information from the application or on Assessor's records

d. An overall evaluation demonstrating the proposed development's compatibility with surrounding development. Buildings in the vicinity of the proposed development that are significantly larger in size than the rest of the buildings in the study area should be removed from this evaluation.

(Amended: Ord. 2006-05-04)

40.240.820 General Management Area Cultural Resource Review Criteria

A. General Provisions for Implementing the Cultural Resources Protection Process.

1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

2. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with ~~Indian~~ tribal governments and any party who submits written comments on the proposed use related to such surveys, assessments, plans and evaluations. ~~Indian~~ Tribal governments shall be consulted if the affected cultural resources are pre-contact historic or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the ~~Indian~~ tribal governments do not have to be consulted. Comments received from a tribal government at any time during the responsible official's review of a proposed development or use shall be considered to ensure that the proposed development or use does not affect or modify the treaty or other rights of that tribe.

3. Reconnaissance and Historic Surveys and Survey Reports.

a. Reconnaissance Survey Requirements and Exceptions.

(1) Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.

(2) A reconnaissance survey shall be required for all proposed uses within five hundred (500) feet of a known cultural resource, including those uses listed as exceptions in Section 40.240.820(A)(3)(a)(3).

(3) A reconnaissance survey shall be required for all proposed uses, except:

(a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(b) Proposed uses that would not disturb the ground, including land divisions and lot line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(d) Proposed uses that occur on sites that have been disturbed by human activities; provided, that the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(e) Proposed uses that would occur on sites that have been adequately surveyed in the past. The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

(i) Residential development that involves two (2) or more new dwellings for the same project applicant.

(ii) Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

(iii) Public transportation facilities that are outside improved rights-of-way.

(iv) Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater.

(v) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(vi) Areas that have a low probability of containing cultural resources shall be identified by the Columbia River Gorge Commission using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

(4) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.

b. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are fifty (50) years old or older.

c. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant. For this section, large-scale uses include residential

development involving two (2) or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

d. Reconnaissance Surveys for Small-Scale Uses.

(1) Reconnaissance surveys for small-scale uses shall be designed by a qualified professional.

(2) Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(a) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(b) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

e. Reconnaissance Survey Reports for Small-Scale Uses. The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(1) A description of the fieldwork methodology used to ~~identity~~ identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(2) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(3) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

f. Reconnaissance Surveys for Large-Scale Uses.

(1) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(2) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(a) Archival research shall be performed before any fieldwork. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(b) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(c) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(d) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

g. Reconnaissance Survey Reports for Large-Scale Uses. The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (1) A description of the proposed use, including drawings and maps.
 - (2) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
 - (3) A list of the documents and records examined during the archival research and a description of any pre~~contact~~~~historic~~ or historic events associated with the project area.
 - (4) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale that provides accurate and readable details. In no event shall the scale be less than of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.
 - (5) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale that provides accurate and readable details. In no event shall the scale be less than of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.
 - (6) A summary of all written comments submitted by ~~Indian~~ tribal governments and other interested parties.
 - (7) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.
- h. Historic Surveys and Reports.
- (1) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.
 - (2) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
 - (3) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
4. The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, ~~except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction~~ of small-scale and large-scale uses.
5. Cultural resources are significant if one (1) of the following criteria is satisfied:
- a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).
 - b. The cultural resources are determined to be culturally significant by ~~an~~ ~~Indian~~ tribal government, based on criteria developed by that ~~Indian~~ tribal government ~~and filed with the Gorge Commission.~~
6. The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one (1) representative from each of the four (4) Columbia River treaty ~~Indian~~ tribes. If a project applicant's and ~~Indian~~ tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and

Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the responsible official as to whether affected cultural resources are significant.

7. Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed development that is subject to any of the following: 1) a reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

(Amended: Ord. 2018-03-04)

B. Cultural Resource Reconnaissance and Historic Surveys.

1. Consultation and Ethnographic Research.

a. When written comments are submitted to the responsible official within the comment period provided for in Section 40.240.050(~~FE~~), the project applicant shall offer to meet with the commenting parties within ten (10) calendar days. The ten (10) day consultation period may be extended upon agreement between the project applicant and the commenting parties. Consultation meetings should provide an opportunity for commenting parties to explain how the proposed use may affect cultural resources. This consultation meeting may include oral history identification through tribal sources. Recommendations to avoid potential conflicts should be discussed. All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report, except that sensitive tribal information may be redacted by an appropriate tribal representative. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

b. A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if parties commenting on the application submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. ~~Tape~~ Recordings, maps, photographs, and minutes shall be used when appropriate. All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

2. Notice of Survey Results.

a. The responsible official shall submit a copy of all cultural resource survey reports to the SHPO and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

b. The SHPO and the ~~tribal~~ tribal governments shall have thirty (30) calendar days from the date a survey report is ~~mailed~~ sent to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process.

a. The responsible official shall make a final decision on whether the proposed use would be consistent with this section. If the final decision contradicts the comments submitted by the SHPO or tribal government, the responsible official shall justify how it reached an opposing conclusion.

b. The cultural resource protection process may conclude when one (1) of the following conditions exists:

- (1) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by parties commenting on the application within ~~thirty~~ twenty-one (2021) calendar days of the date that a notice was ~~mailed~~ sent.

(2) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by commenting parties within ~~thirty-two~~ one (3024) calendar days of the date that a notice was ~~mailed~~ sent.

(3) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing activities shall be prohibited within the buffer zone. Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

~~Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant easement or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.~~

c. An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

d. A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures ~~because~~:

(1) To demonstrate that the proposed use would not have an effect on historic buildings or structures, the historic survey must satisfy one of the following guidelines:

(a) The SHPO concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4); or

~~(b2)~~ The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in ~~The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and The Secretary of the Interior's Standards for Treatment of Historic Properties~~ with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (U.S. Department of the Interior 1983 2017 or most recent revision).

(2) The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

(3) The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the SHPO or the responsible official question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

C. Evaluation of Significance.

1. Evaluation Criteria and Information Needs. If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

a. Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, ~~no date~~ 1997 or most recent revision) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, ~~no date~~ 1998 or most recent revision). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

b. To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

c. The project applicant shall contact ~~Indian~~ tribal governments and commenting parties as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

d. The evaluation of significance shall follow the principles, guidelines, and report format recommended by Washington ~~Department Office~~ of Archaeology and Historic Preservation (Washington ~~SHPO DAHP, no date~~). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

e. All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with ~~Indian~~ tribal governments and other commenting parties shall be presented. All comments, recommendations, and correspondence from ~~Indian~~ tribal governments and commenting parties shall be appended to the evaluation of significance.

2. Notice of Evaluation Results.

a. If the evaluation of significance demonstrates that the cultural resources are not significant, the responsible official shall submit a copy of the evaluation of significance to the SHPO and the ~~Indian~~ tribal governments for concurrence.

b. The SHPO, ~~Indian~~ tribal governments, and commenting parties shall have thirty (30) calendar days from the date the evaluation of significance is mailed sent to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Cultural Resources are Culturally Significant.

a. If a ~~an Indian~~ tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applications evaluation and the ~~Indian~~ tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

b. The ~~Indian~~ tribal government shall substantiate its concerns in a written report. The report shall be submitted to the responsible official, CAC, and the project applicant within fifteen (15) calendar days from the date the evaluation of significance is mailed sent. The CAC must submit its recommendation to the responsible official within thirty (30) calendar days from the date the evaluation of significance is mailed sent.

4. Conclusion of the Cultural Resource Protection Process.

a. The responsible official shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the SHPO or CAC, the responsible official shall justify how an opposing conclusion was reached.

b. The cultural resource protection process may conclude if the affected cultural resources are not significant.

c. If the project applicant or the responsible official determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

D. Assessment of Effect.

1. Assessment Criteria and Information Needs. If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect.

a. The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.

(1) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant (36 CFR 800.5).

(2) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association (36 CFR 800.5). Adverse effects on cultural resources include, but are not limited to:

(a) Physical destruction, damage, or alteration of all or part of the cultural resource.

(b) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(c) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(d) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.

b. The assessment of effect shall be prepared in consultation with ~~Indian~~ tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by ~~Indian~~ tribal governments and interested persons shall be recorded and addressed in the assessment.

c. The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(1) The cultural resources are of value only for their potential contribution to archaeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(2) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with ~~The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and The Secretary of the Interior's Standards for the Treatment of Historic Properties~~ with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (U.S. Department of the Interior 2017 or most recent revision).

2. Notice of Assessment Results.

a. If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the responsible official shall submit a copy of the assessment to the SHPO and the ~~Indian~~-tribal governments.

b. The SHPO, ~~Indian~~-tribal governments, and interested persons shall have thirty (30) calendar days from the date the assessment of effect is ~~mailed sent~~ to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process.

a. The responsible official shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the SHPO or tribal government, the responsible official shall justify how an opposing conclusion was reached.

b. The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

c. A mitigation plan shall be prepared if a project applicant or the responsible official determines that the proposed use would have an adverse effect on significant cultural resources.

(Amended: Ord. 2008-06-02)

E. Mitigation Plans.

1. Mitigation Plan Criteria and Information Needs. Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

a. Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including ~~Indian~~-tribal governments, Native Americans, the responsible official ~~local governments whose jurisdiction encompasses the project area~~, and the SHPO.

b. Avoidance of cultural resources through project design and modification is preferred. Avoidance may be affected by reducing the size, scope, configuration, and density of the proposed use.

c. Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures may include, but are not limited to, requiring a monitor during construction, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records. Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.11, including, but not limited to:

(1) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(2) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(3) Documentation of consultation with the SHPO regarding any alternatives or mitigation measures.

(4) A description of the project applicant's efforts to obtain and consider the views of ~~Indian~~-tribal governments, commenting parties, and the responsible official.

(5) Copies of any written recommendations submitted to the responsible official or project applicant regarding the effects of the proposed use on cultural resources and alternatives to a void or reduce those effects.

2. Notice of Mitigation Plan Results.

a. If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the responsible official shall submit a copy of the mitigation plan to the SHPO and the ~~Indian~~ tribal governments.

b. The SHPO, ~~Indian~~ tribal governments, and commenting parties shall have thirty (30) calendar days from the date the mitigation plan is ~~mailed-sent~~ to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process.

a. The responsible official shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the SHPO or tribal government, the responsible official shall justify how an opposing conclusion was reached.

b. The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

c. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(Amended: Ord. 2008-06-02)

F. Cultural Resources Discovered After Construction Begins.

The following procedures shall be put into effect when cultural resources are discovered during construction activities. ~~and shall be included as conditions of approval for all review uses.~~ All survey and evaluation reports and mitigation plans shall be submitted to the responsible official and the SHPO. ~~Indian~~ Tribal governments also shall receive a copy of all reports and plans if the cultural resources are ~~precontact prehistoric~~ or otherwise associated with Native Americans.

1. Halt of Construction. All construction activities within one hundred (100) feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

2. Notification. The project applicant shall notify the responsible official and the Gorge Commission within twenty-four (24) hours of the discovery. If the cultural resources are ~~precontact prehistoric~~ or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within twenty-four (24) hours.

3. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the SHPO. (See Chapter 27.53 RCW). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in Sections 40.240.820(A)(3)(g) and 40.240.820(C)(1). Based on the survey and evaluation report and any written comments, the responsible official shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.

~~Based on the survey and evaluation report and any written comments, the responsible official shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.~~

4. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in Section 40.240.820(E)(1). Construction activities may recommence when the conditions in the mitigation plan have been executed.

G. Discovery of Human Remains.

The following procedures shall be ~~put into effect~~used when human remains are discovered during a cultural resource survey or during construction ~~and shall be included as a condition of approval for all review uses.~~ "Human remains" means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

2. Notification. Local law enforcement officials, the responsible official, the Gorge Commission, and the ~~Indian~~ tribal governments shall be contacted immediately. Do not contact any other entity other than those listed here.

3. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are ~~precontact, prehistoric/~~historic; or modern. Representatives from the ~~Indian~~ tribal governments shall have an opportunity to monitor the inspection.

4. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

5. Treatment. ~~Precontact Prehistoric/ or~~ historic remains of Native Americans shall generally be treated in accordance with the procedures set forth Chapters 27.44 and 68.05 RCW if the remains are ~~precontact or prehistoric/~~historic. If the human remains will be re-interred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in Section 40.240.820(E)(1). The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in Section 40.240.820(E)(3) are met and the mitigation plan is executed.

(Amended: Ord. 2006-05-04)

40.240.830 Special Management Area Cultural Resource Review Criteria

A. General Guidelines for Implementing the Cultural Resources Protection Process.

1. All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the National Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470(hh) and 36 CFR 296.18.

2. All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

3. The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Section 40.240.830(D) for federal forest practices and National Forest System lands.

4. New developments or land uses shall not adversely affect significant cultural resources.

5. The SMA provisions will have little effect on federal or federally assisted developments. These developments must continue to comply with Section 106 of the Historic Preservation Act of 1966.

B. The procedures and guidelines in Section 40.240.820 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

C. The procedures and guidelines in 36 CFR 800 and Section 40.240.830(D) shall be used by federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

D. The following procedures as well as the provisions in 36 CFR 800 shall be used to assess potential effects to cultural resources:

1. Literature Review and Consultation.

a. An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

b. A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for thirty (30) days.

c. Consultation with cultural resource professionals knowledgeable about the area.

d. A field inventory by a cultural resource professional shall be required if the Forest Service ~~or the responsible official~~ determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the tribal governments.

2. Field Inventory.

a. Tribal representatives shall be invited to participate in the field inventory.

b. The field inventory shall consist of one (1) or the other of the following guidelines, as determined by the cultural resource professional:

(1) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(2) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or nonstratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by nonenvironmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

c. A field inventory report shall be prepared, and shall include the following:

(1) A narrative integrating the literature review of subsection (D)(1) of this section with the field inventory of subsection (D)(2)(b) of this section.

(2) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(3) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(4) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

d. The report shall follow the format specified by the Washington ~~Office~~ Department of Archaeology and Historic Preservation for inventories conducted in the state of Washington.

e. The field inventory report shall be presented to the Forest Service ~~or the responsible official~~ for review.

3. Evaluations of Significance.

a. When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

b. Evaluations of cultural resource significances shall be guided by previous and current research designs relevant to specific research questions for the area.

c. Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

d. Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service ~~or the responsible official~~ shall review evaluations for a adequacy.

e. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

f. An assessment of effect shall be required if the Forest Service ~~or the responsible official~~ determines that the inventoried cultural resources are significant.

4. Assessment of Effect.

a. For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for subsections (D)(4)(b) through (D)(4)(d) of this section. The Forest Service ~~or the responsible official~~ shall review each determination for a adequacy.

b. If the proposed development or change in use will have "no adverse effect," as defined by 36 CFR 800.4, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect (36 CFR 800.5) must be applied.

c. If the proposed development or change in use will have an "adverse effect," as defined by 36 CFR 800.5, to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.11 ("Failure to Resolve Adverse Effects").

d. If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

5. Mitigation.

- a. If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.
- b. Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.
- c. The Forest Service ~~or the responsible official~~ shall review all mitigation proposals for adequacy.

(Amended: Ord. 2008-06-02)

E. Discovery During Construction.

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the ~~Forest Service or the~~ responsible official if cultural resources are discovered during construction or development.

1. If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and if possible ~~or~~ recover the resources.
2. If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:
 - a. The applicant shall stop all work in the vicinity of the discovery.
 - b. The applicant shall immediately notify the responsible official, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.
 - c. The Forest Service or the responsible official shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.
 - d. A cultural resource professional shall evaluate the potential significance of the resource pursuant to Section 40.240.830(D)(3) and report the results to the Forest Service ~~or the responsible official~~.
3. The cultural resource review process shall be complete and work may continue if the Forest Service ~~or the responsible official~~ determines that the cultural resource is not significant.
4. The cultural resource professional shall recommend measures to protect and if possible ~~or~~ recover the resource pursuant to Section 40.240.830(D)(5) if the Forest Service or the responsible official determines that the cultural resource is significant.

(Amended: Ord. 2006-05-04)

40.240.840 General Management Area Water Resources Wetland (Wetlands, Streams, Ponds, Lakes, and Riparian Areas) Review Criteria

A. Wetlands Boundaries and Site Plans for Review Uses in Wetlands.

1. If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.
 - a. The approximate location and extent of wetlands in the National Scenic Area are indicated on the list of hydric soils and the soil survey maps and the National Wetlands Inventory (U.S. Department of the Interior, ~~1987~~). Wetlands boundaries shall be delineated using the procedures specified in the Corps of Engineers Wetland Delineation Manual (Wetlands Research Program Technical Report y-87-1, online

edition, ~~updated through March 21, 1997~~). ~~Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered during an inspection of a potential project site shall be delineated and protected.~~

b. All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation process, ~~such as a soil scientist, botanist, or wetlands ecologist.~~

c. The responsible official may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the responsible official shall, at the applicant's expense, obtain professional services to render a final delineation.

~~d. Proposed uses within wetlands or wetlands buffer areas shall comply with SEPA, this section, and Chapter 40.450, as applicable. Chapter 40.240 shall prevail in cases of conflict with such regulations.~~

2. In addition to the information required in all site plans, site plans for proposed uses in water resources wetlands or wetlands ~~their~~ buffer zones shall include:

a. A site plan map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail;

b. The exact boundary of the water resource wetland, ordinary high water mark, or normal pool elevation, and the ~~wetlands~~ buffer zone; and

c. A description of actions that would affect the water resource ~~alter or destroy the wetland~~.

(Amended: Ord. 2018-03-04)

~~B. Uses Allowed Outright in Wetlands and Wetlands Buffer Zones.~~

3. Uses allowed outright in wetlands and wetlands buffer zones are listed in Section 40.240.120. This section shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. This map is available at county planning departments and Commission and Forest Service offices. The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Section 40.240.050, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(Amended: Ord. 2018-03-04)

~~B.C.~~ Review Uses in Wetlands

1. The following uses may be allowed in wetlands, subject to compliance with Sections 40.240.800 through 40.240.900, and 40.240.840.E.

a. The modification, expansion, replacement, or reconstruction of serviceable transportation or other public infrastructure (this does not include private road and driveways), if such actions would not:

(1) Increase the size of an existing structure by more than 100 percent.

(2) Result in a loss of water resource functions.

(3) Result in a loss of water quality, natural drainage, and fish and wildlife habitat.

b. The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to: boardwalks; observation decks; interpretative aids, such as kiosks and signs; and trails and paths, provided their surface is not constructed of impervious materials.

c. The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.

C. The following uses may be allowed in ~~wetlands and wetlands~~ water resources (except wetlands) and may be allowed in all water resource -buffer zones (including wetlands buffer zones), when approved pursuant to the provisions in Section 40.240.840(~~FE~~), and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900:

a. ~~1.~~ The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(1)a. Increase the size of an existing structure by more than one hundred percent (100%);

(2)b. Result in a loss of ~~wetlands water resources~~ acreage or functions;

(3). Result in a loss of water quality, natural drainage, and fish and wildlife habitat; and

(4)e. Intrude further into a water resources or water resources ~~wetland or wetlands~~ buffer zone. New structures shall be considered intruding further into a water resources or water resources ~~wetland or wetlands~~ buffer zone if any portion of the structure is located closer to the water resource or wetland or wetlands buffer zone than the existing structure.

b. ~~2.~~ The construction, modification, expansion, replacement, or reconstruction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

c. ~~3.~~ The construction, modification, expansion, replacement, or reconstruction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal government resource agencies.

(Amended: Ord. 2008-06-02; Ord. 2018-03-04)

D. Uses not listed in Sections 40.240.840(B) and (C) may be allowed in water resources (except wetlands) and in all water resources ~~wetlands and wetlands~~ buffer zones (including wetland buffer zones), when approved pursuant to Section 40.240.840(~~GF~~) and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900.

E. Approval Criteria for Uses in Wetlands

1. The uses identified in 40.240.840.B.1, may be allowed only if they meet all of the following criteria:

a. Practicable alternatives for locating the structure outside of the wetland do not exist.

b. All reasonable measures have been applied to ensure that the use will result in the minimum loss of wetlands and in the minimum degradation of ecological functions, water quality, existing contour, vegetation, fish and wildlife resources, and hydrology.

c. The use will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality.

d. Areas disturbed during construction of the use will be rehabilitated to the maximum extent practicable.

e. The use complies with the Approval Criteria for Other Review Uses in Water Resources below.

f. Proposed uses in wetlands shall be evaluated for a diverse effects, including cumulative effects, and a diverse effects shall be prohibited

g. The use complies with all applicable federal, state, and local laws.

~~FE.~~ Applications for modifications to serviceable structures and minor water-dependent and water-related structures in water resources wetlands listed in 40.240.840.C.2 shall demonstrate that:

1. Practicable alternatives to locating the structure outside of the water resource wetlands or wetland buffer zone ~~and/or minimum the impacts of the structure~~ do not exist;

2. All reasonable measures have been applied to ensure that the ~~structure use~~ will result in the minimum ~~feasible~~ alteration or ~~degradation~~ ~~destruction~~ of ~~ecological functions~~ ~~the wetlands~~, water quality, existing contour, ~~functions~~, vegetation, fish and wildlife resources, and hydrology;

3. The ~~structure use~~ will be constructed using best management practices. Best management practices can include measures to prevent soil erosion, the introduction and spread of invasive plants and aquatic species, and other impacts to plants, wildlife, soil, and water. Boardwalks and observation decks shall be constructed using non-toxic materials to protect water quality;

4. Areas disturbed during construction of the ~~structure use~~ will be rehabilitated to the maximum extent practicable;

5. Proposed uses in water resources and their buffer zones shall be evaluated for a diverse effects, including cumulative effects, and a diverse effects shall be prohibited, and

~~65.~~ The ~~structure use~~ complies with all applicable federal, state, and county laws.

~~GF.~~ Applications for all other review uses listed in 40.240.840.D in water resources wetlands shall demonstrate that:

1. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

a. The basic purpose of the use cannot be reasonably accomplished using one (1) or more other sites in the vicinity that would avoid or result in less adverse effects on ~~wetlands~~ water resources, wildlife areas and sites or plant areas and sites.

b. The basic purpose of the use cannot be ~~reasonably~~ accomplished by reducing its proposed size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on ~~wetlands~~ water resources, or wildlife areas or sites or plant areas and sites.; and

c. Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land use designation or ~~R~~ecreation ~~I~~ntensity ~~C~~lass is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

1 An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can
 2 be undertaken on that site after taking into consideration cost, technology, logistics, and overall project
 3 purposes.

4 2. Public Interest Test. The proposed use is in the public interest. The following factors shall be considered
 5 when determining if a proposed use is in the public interest:

6 a. The extent of public need for the proposed use For uses in wetlands, public need is limited to uses
 7 necessary to alleviate a current public safety issue supported by evidence establishing the safety issue.;

8 b. The extent and permanence of beneficial or detrimental effects that the proposed use may have on
 9 the public and private uses for which the property is suited;

10 c. The functions and size of the ~~wetland~~ water resource that may be affected;

11 d. The economic value of the proposed use to the general area; and

12 e. The ecological value of the water resource ~~wetland~~ and probable effect on public health and safety,
 13 fish, plants, and wildlife.

14 3. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration ~~or~~
 15 ~~destruction~~ of the resource. As a starting point, the following measures shall be considered when new
 16 development and uses are proposed in water resources or buffer zones: wetland's functions, existing contour,
 17 vegetation, fish and wildlife resources, and hydrology.

18 a. Ecological functions, contour, and hydrology shall be maintained. Nonstructural controls and natural
 19 processes shall be used to the greatest extent possible.

20 b. Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work
 21 in streams, ponds, and lakes shall be conducted during the periods specified in Washington state's
 22 published guidelines for in-water work, or as advised by the Washington Department of Fish and Wildlife.

23 c. All vegetation shall be retained to the greatest extent practicable, including wetland, aquatic, and
 24 riparian vegetation.

25 d. Bridges, roads, pipelines and utility corridors, and other water crossings shall be minimized and should
 26 serve multiple purposes and properties.

27 e. Stream channels shall not be placed in culverts unless absolutely necessary for property access.
 28 Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks.
 29 When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and
 30 grade should be used. State agencies with permitting responsibility for culverts shall be consulted.

31 f. Temporary and permanent control measures shall be applied to minimize erosion and sedimentation
 32 when water resource areas are disturbed, such as slope netting, berms and ditches, tree protection, sediment
 33 barriers, infiltration systems, and culverts.

34 g. Measures shall be taken to prevent the introduction or spread of invasive plants or aquatic species.

35 4. Groundwater and surface-water quality will not be degraded by the proposed use.

36 5. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not
 37 be located in water resources or wetlands or wetlands buffer zones.

38 6. The proposed use complies with all applicable federal, state, and county laws.

7. Areas that are disturbed during construction will be rehabilitated ~~to the maximum extent practicable.~~
~~When a project area cannot be completely restored or rehabilitated, such as when a boat launch permanently~~
~~displaces aquatic and riparian areas, enhancement shall also be required.~~

8. ~~Proposed uses in water resources and their buffer zones shall be evaluated for adverse effects, including~~
~~cumulative effects, and adverse effects shall be prohibited.~~

9. ~~Unavoidable impacts to water resources wetlands will be offset through restoration, creation, or~~
~~enhancement of impacted resources wetlands. Wetlands restoration, creation, and enhancement are not~~
~~alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable water~~
~~resource wetlands impacts.~~

10. ~~Restoration, creation, and enhancement shall improve water quality, natural drainage, and fish and~~
~~wildlife habitat of the affected wetland, stream, pond, lake, or buffer zone. When a project area has been~~
~~disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.~~ The
following ~~wetlands-water resource~~ restoration, creation, and enhancement guidelines shall apply:

a. ~~Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded~~
~~wetlands. Wetlands restoration shall be the preferred approach when wetlands are impacted.~~

~~b. Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with~~
~~Section 40.240.840(H) and Chapter 40.450, although Chapter 40.240 shall prevail in cases of conflict.~~

b. ~~Water resources restoration and enhancement projects shall be conducted in accordance with a~~
~~wetlands compensation plan or water resources mitigation plan. Voluntary enhancement project~~
~~applications shall be encouraged. See Part III, Chapter 4: "Enhancement Strategies" of the Management~~
~~Plan and 40.240.270.~~

c. ~~Wetlands restoration, creation, and enhancement projects shall use native vegetation. Water resources~~
~~shall be replanted with native plant species that replicate the original vegetation community.~~

d. ~~Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity,~~
~~volume, and normal water fluctuation.~~

e. ~~Natural stream channel and shoreline dimensions shall be replicated, including depth, width,~~
~~length, cross-sectional profile, and gradient. Riparian areas shall be rehabilitated to their original~~
~~configuration, including slope and contour.~~

f. ~~The bed of the affected aquatic area shall be rehabilitated with materials appropriate for the~~
~~channel and hydrologic features.~~

g. ~~Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and~~
~~structural habitat features including large woody debris and boulders.~~

h. ~~Rehabilitation and enhancement efforts shall be completed no later than 90 days after the water~~
~~resource or buffer zone has been altered, or as soon thereafter as is practicable.~~

i. ~~The size of replacement wetlands shall equal or exceed the following ratios (the first number~~
~~specifies the required acreage of replacement wetlands and the second number specifies the acreage of~~
~~wetlands altered or destroyed):~~

- | | |
|------------------|-----|
| (1) Restoration: | 2:1 |
| (2) Creation: | 3:1 |
| (3) Enhancement: | 4:1 |

1
2 ~~j.e.~~ Replacement wetlands shall replicate the functions of the wetland that will be altered ~~or destroyed~~
3 such that ~~there are no net loss~~ improvement of wetlands functions occurs.

4 ~~k.f.~~ Replacement wetlands should replicate the type of wetland that will be altered ~~or destroyed~~. If this
5 guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit
6 may be substituted; provided, that ~~no net loss~~ improvement of wetlands functions occurs.

7 ~~l.g.~~ Wetlands restoration, creation, or enhancement should occur within one thousand (1,000) feet of the
8 affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur
9 within the same watershed and as close to the altered ~~or destroyed~~ wetland as practicable.

10 ~~m.h.~~ ~~Wetlands~~ Restoration, creation, and enhancement efforts should be completed before a water
11 resource wetland is altered ~~or destroyed~~. If it is not practicable to complete all restoration, creation, and
12 enhancement efforts before the water resource wetland is altered ~~or destroyed~~, these efforts shall be
13 completed before the new use is occupied or used.

14 ~~n.i.~~ Five (5) years after a wetland is restored, created, or enhanced, ~~or three years after a stream, pond,~~
15 ~~lake, or riparian area is restored~~, at least seventy-five percent (75%) of the replacement vegetation shall
16 ~~must~~ survive. For a period of at least five (5) years, the owner shall monitor the hydrology and vegetation
17 of the replacement water resource, provide reports, wetland and shall take corrective measures to ensure
18 that it conforms with the approved wetlands compensation plan or water resources mitigation plan and this
19 guideline.

20 H.G. Water Resources Wetlands Buffer Zones.

21 1. All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified below.

22 2. Buffer zones shall be measured outward from the bank full flow boundary for streams, the ordinary high
23 water mark for ponds, lakes and the Columbia River below Bonneville Dam, the normal pool elevation for the
24 main stem Columbia River above Bonneville Dam, and the wetland delineation boundary for wetlands on a
25 horizontal scale that is perpendicular to the water resource boundary.

26 3. The project applicant shall be responsible for determining the exact location of the bank full flow
27 boundary, ordinary high water mark, normal pool elevation, or wetland delineation boundary. The responsible
28 official may verify the accuracy of and render adjustments to the applicant's determination. If the project
29 applicant contests the adjustment, the responsible official shall obtain professional services to render a final
30 delineation, at the project applicant's expense.

31 4. The width of wetlands, lakes, and ponds buffer zones shall be based on the dominant vegetation
32 community that exists in a buffer zone.

33 a. The dominant vegetation community in a buffer zone is the vegetation community that covers the
34 most surface area of that portion of the buffer zone that lies between the proposed activity and the
35 affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

36 (1) ~~a.~~ A forest vegetation community is characterized by trees with an average height equal to
37 or greater than twenty (20) feet, accompanied by a shrub layer; trees must form a canopy cover of
38 at least forty percent (40%) and shrubs must form a canopy cover of at least forty percent (40%).
39 A forest community without a shrub component that forms a canopy cover of at least forty percent
40 (40%) shall be considered a shrub vegetation community.

41 (2) ~~b.~~ A shrub vegetation community is characterized by shrubs and trees that are greater than
42 three (3) feet tall and form a canopy cover of at least forty percent (40%).

43 (3) ~~e.~~ An herbaceous vegetation community is characterized by the presence of herbs, including
44 grass and grass-like plants, forbs, ferns, and nonwoody vines.

~~53. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary.~~ The following buffer zone widths for wetlands, lakes and ponds shall be required:

- | | | |
|----|-------------------------|----------|
| a. | Forest communities: | 75 feet |
| b. | Shrub communities: | 100 feet |
| c. | Herbaceous communities: | 150 feet |

~~64. Except as otherwise allowed, water resources wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species ~~as identified by the Clark Conservation District.~~~~

7. The width of buffer zones for streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams shall be 100 feet.

8. The width of buffer zones for intermittent streams, provided they are not used by anadromous or resident fish, shall be 50 feet.

(Amended: Ord. 2012-12-23)

I.H. Wetlands Compensation Plans.

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. A written plan addressing the guidelines in this section is also required for voluntary enhancement projects. All wetlands compensation plans must be approved by the responsible official, after consultation with federal and state agencies with jurisdiction over wetlands. They shall satisfy the following guidelines and any others required by federal and state agencies:

1. Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

2. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered ~~or destroyed~~ and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

3. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

4. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than one (1) foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

a. Soil and substrate conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

c. Water quality parameters, water source, water depths, water control structures, and water level maintenance practices needed to achieve the necessary hydrologic conditions.

5. A five (5) year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems,

and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

6. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

~~I. Wetlands enhancement projects shall be consistent with Section 40.240.840(H).~~

~~(Amended: Ord. 2006-05-04)~~

~~40.240.850 General Management Area Stream, Pond, Lake and Riparian Area Review Criteria~~

~~A. Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas.~~

~~1. If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high water mark or normal pool elevation.~~

~~2. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:~~

~~a. A site plan map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail;~~

~~b. The exact boundary of the ordinary high water mark or normal pool elevation and prescribed buffer zone; and~~

~~c. A description of actions that would alter or destroy the stream, pond, lake, or riparian area.~~

~~(Amended: Ord. 2018-03-04)~~

~~B. Uses.~~

~~Uses allowed outright in streams, ponds, lakes, and their buffer zones are listed in Section 40.240.120.~~

~~(Amended: Ord. 2018-03-04)~~

~~C. The following uses may be allowed in streams, ponds, lakes and riparian areas, and their buffer zones, when approved pursuant to Section 40.240.850(E), and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900; provided, that proposed uses in streams, ponds, lakes, and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited:~~

~~1. The modification, expansion, replacement, or reconstruction of serviceable structures; provided, that such actions would not:~~

~~a. Increase the size of an existing structure by more than one hundred percent (100%);~~

~~b. Result in a loss of water quality, natural drainage, and fish and wildlife habitat; or~~

~~c. Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.~~

~~2. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks, trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.~~

~~3. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to~~

dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(Amended: Ord. 2018-03-04)

~~D. Uses not listed in Section 40.240.850(B) and (C) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Section 40.240.850(F) and reviewed under the applicable provisions of Section 40.240.800 through 40.240.900.~~

~~E. 1. Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:~~

~~a. Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;~~

~~b. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;~~

~~c. The structure will be constructed using best management practices;~~

~~d. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and~~

~~e. The structure complies with all applicable federal, state, and local laws.~~

~~2. Applications for all other review uses in wetlands, streams, ponds, and lakes shall demonstrate that:~~

~~a. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Section 40.240.840(F)(1), substituting the term "stream," "pond," "lake," or "riparian area" as appropriate.~~

~~b. The proposed use is in the public interest as determined by Section 40.240.840(F)(2), substituting the term "stream," "pond," "lake," or "riparian area" as appropriate.~~

~~c. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:~~

~~(1) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. The Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods for in-water work.~~

~~(2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.~~

~~(3) Nonstructural controls and natural processes shall be used to the greatest extent practicable.~~

~~(4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.~~

~~(5) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.~~

~~(6) — Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.~~

~~d. — Groundwater and surface water quality will not be degraded by the proposed use.~~

~~e. — Those portions of a proposed use that are not water dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.~~

~~f. — The proposed use complies with all applicable federal, state, and county laws.~~

~~g. — Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement. Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required. The following rehabilitation and enhancement guidelines shall apply:~~

~~(1) — Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.~~

~~(2) — Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.~~

~~(3) — Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.~~

~~(4) — The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.~~

~~(5) — Riparian areas shall be rehabilitated to their original configuration, including slope and contour.~~

~~(6) — Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.~~

~~(7) — Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.~~

~~(8) — Rehabilitation and enhancement efforts shall be completed no later than ninety (90) days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.~~

~~(9) — Three (3) years after an aquatic area or buffer zone is rehabilitated or enhanced, at least seventy-five percent (75%) of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.~~

~~F. — Stream, Pond, and Lake Buffer Zones.~~

~~1. — Buffer zones shall generally be measured landward from the ordinary high water mark on a horizontal scale that is perpendicular to the ordinary high water mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:~~

~~a. — Streams verified by state or federal resource management agencies as habitat for species recognized to be threatened or endangered by the U.S. Fish and Wildlife Service, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources: one hundred fifty (150) feet.~~

~~b. — Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: one hundred (100) feet.~~

~~c. Intermittent streams; provided, that they are not used by anadromous or resident fish: fifty (50) feet.~~

~~d. Ponds and Lakes. Buffer zone widths shall be based on dominant vegetative community as determined by Section 40.240.840(G)(2), substituting the term "pond" or "lake" as appropriate.~~

~~2. Except as otherwise allowed, buffer zones shall be retained in their natural condition.~~

~~3. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.~~

J4. Determining the exact location of the ordinary high water mark or normal pool elevation shall be the responsibility of the project applicant. The responsible official may verify the accuracy of, and may render adjustments to, an ordinary high water mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the responsible official shall, at the project applicant's expense, obtain professional services to render a final delineation.

K.G. Water Resources Mitigation Rehabilitation and Enhancement Plans.

~~Rehabilitation and enhancement Mitigation~~ plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake ~~and~~ or buffer area. A written plan addressing the guidelines in this section is also required for voluntary enhancement projects. Plans ~~They~~ shall satisfy the following guidelines and any others required by federal and state agencies::

1. ~~Rehabilitation and enhancement Mitigation~~ plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, ~~such as fish or wildlife biologists.~~

2. All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, ~~and~~ or buffer zone. The assessment shall include hydrology, flora, and fauna.

3. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least two (2) feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

a. Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predating.

c. Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

4. A minimum three (3) year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least seventy-five (75) percent of the replacement vegetation shall survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet this guideline Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

5. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a ~~mitigation rehabilitation and enhancement~~ plan.

~~H. Wetlands enhancement projects shall be consistent with Section 40.240.840(H).~~

(Amended: Ord. 2006-05-04)

40.240.860 General Management Area Sensitive Wildlife Review Criteria

A. Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife.

1. ~~Except uses allowed outright, proposed uses may be allowed within one thousand (1,000) feet of a Priority Habitat or sensitive wildlife area or site subject to compliance with 40.240.800 through 40.240.900 and 40.240.860.E.~~

24. Proposed uses within one thousand (1,000) feet of a Priority Habitat or sensitive wildlife ~~area or~~ site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.

~~a. "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:~~

- ~~(1) Bald eagle habitat;~~
- ~~(2) Deer and elk winter range;~~
- ~~(3) Elk habitat;~~
- ~~(4) Mountain goat habitat;~~
- ~~(5) Peregrine falcon habitat;~~
- ~~(6) Pika colony area;~~
- ~~(7) Pileated woodpecker habitat;~~
- ~~(8) Pine marten habitat;~~
- ~~(9) Shallow water fish habitat (Columbia River);~~
- ~~(10) Special streams;~~
- ~~(11) Special habitat area;~~
- ~~(12) Spotted owl habitat;~~
- ~~(13) Sturgeon spawning area;~~
- ~~(14) Tributary fish habitat;~~
- ~~(15) Turkey habitat;~~
- ~~(16) Waterfowl area;~~
- ~~(17) Western pond turtle habitat.~~

~~b. "Sensitive wildlife sites" means sites that are used by a animal species that are:~~

- ~~(1) Listed as endangered or threatened pursuant to federal or state endangered species acts; and~~
- ~~(2) Listed as endangered, threatened, sensitive, or candidate by the Washington Fish and Wildlife Commission, or considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).~~

32. In addition to the information required in all site plans, ~~site plans for~~ uses within one thousand (1,000) feet of a Priority Habitat or sensitive wildlife ~~area or~~ site shall include a map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

(Amended: Ord. 2018-03-04)

B. Uses.

Uses allowed outright in sensitive wildlife areas are listed in Section 40.240.120.

C. Field Survey.

A field survey to identify Priority Habitat or sensitive wildlife ~~areas or~~ sites shall be required for:

1. Land divisions that create four (4) or more parcels;
2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
3. Public transportation facilities that are outside improved rights-of-way;
4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and
5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project-related activities except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing development utility sites, that are maintained annually.
6. Field surveys shall cover all areas affected by the proposed use or recreation ~~development facility~~. They shall be conducted by a professional wildlife biologist hired by the project applicant. All Priority Habitat and sensitive wildlife ~~areas and~~ sites discovered in a project area shall be described and shown on the site plan map.

(Amended: Ord. 2007-11-13)

D. Uses not listed in Section 40.240.860(B) may be allowed within one thousand (1,000) feet of a sensitive wildlife area or site, when approved pursuant to Section 40.240.860(E) and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900.

E. The approximate locations of sensitive wildlife sites are maintained by the Gorge Commission, Forest Service, and state wildlife agencies. State wildlife biologists will help determine if a new use would adversely affect a Priority Habitat or sensitive wildlife area or site. Uses that are proposed within one thousand (1,000) feet of a Priority Habitat or sensitive wildlife ~~area or~~ site shall be reviewed as follows:

1. Site plans shall be submitted to the Washington Department of Fish and Wildlife by the responsible official. State wildlife biologists will review the site plan and their field survey records and:
 - a. Identify/verify the precise location of the Priority Habitat or sensitive wildlife ~~area or~~ site;
 - b. Ascertain whether the Priority Habitat or sensitive wildlife ~~area or~~ site is active or abandoned; and
 - c. Determine if the proposed use may compromise the integrity of the wildlife ~~habitat area~~ or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify ~~the~~ wildlife ~~inventory data~~ and assess the potential effects of a proposed use.
2. Oregon white oak shall not be removed if practicable alternatives exist. If no practicable alternative exists, a wildlife survey and mitigation plan shall be required. This criterion shall not apply to forest practices that are otherwise allowed and that do not violate conditions of approval for other approved uses.
3. The following factors may be considered when site plans are reviewed:
 - a. Biology of the affected wildlife species;
 - b. Published guidelines regarding the protection and management of the affected wildlife species. The Washington Department of Fish and Wildlife has prepared guidelines for a variety of species, including

the western pond turtle, the peregrine falcon, Oregon white oak and the Larch Mountain salamander-
(Rodrick and Milner, 1991);

c. Physical characteristics of the subject parcel and vicinity, including topography and vegetation;

d. Historic, current, and proposed uses in the vicinity of the Priority Habitat or sensitive wildlife ~~area or~~
site;

e. Existing condition of the Priority Habitat or sensitive wildlife ~~area or~~ site and the surrounding habitat
~~and the useful life of the area or site.~~

43. The wildlife protection process may terminate if the responsible official, in consultation with the
Washington Department of Fish and Wildlife, determines:

a. The sensitive wildlife ~~area or~~ site is not active; or

b. The proposed use would not compromise the integrity of the Priority Habitat or sensitive wildlife-
~~area or~~ site or occur during the time of the year when wildlife species are sensitive to disturbance.

54. If the responsible official, in consultation with the Washington Department of Fish and Wildlife,
determines that the proposed use would have only minor effects on the Priority Habitat or sensitive wildlife -
~~wildlife area or~~ site that could be eliminated through ~~mitigation~~ measures recommended by the state wildlife
biologist or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the
applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts
these recommendations, the responsible official will incorporate them into the ~~development review order~~,
written decision and the wildlife protection process may conclude.

65. The project applicant shall prepare a wildlife ~~mitigation plan~~ management plan if the responsible
official, in consultation with the Washington Department of Fish and Wildlife, determines that the proposed use
would adversely affect a Priority Habitat or sensitive wildlife ~~area or~~ site and the effects of the proposed use
cannot be eliminated through site plan modifications or project timing.

76. The responsible official shall submit a copy of all field surveys and wildlife ~~management~~ mitigation -
plans to Washington Department of Fish and Wildlife. The Washington Department of Fish and Wildlife will
have ~~thirty-two~~ (320) days from the date that a field survey or management plan is ~~mailed sent~~ to submit
written comments to the responsible official.

8. The responsible official shall record and address any written comments submitted by the Washington
Department of Fish and Wildlife in the land use ~~review order~~ written decision.

9. Based on the comments from the Washington Department of Fish and Wildlife, the responsible official will
make a final decision on whether the proposed use would be consistent with the wildlife policies and
guidelines. If the final decision contradicts the comments submitted by the Washington Department of Fish and
Wildlife, the responsible official shall justify how the opposing conclusion was reached.

10. The responsible official shall require the applicant to revise the wildlife ~~management~~ mitigation plan as
necessary to ensure that the proposed use would not adversely affect a Priority Habitat or sensitive wildlife ~~area~~
~~or~~ site.

11. If the responsible official discovers a new protected wildlife location during the review process, the
responsible official shall submit this information to the Washington Dept of Fish and Wildlife to be updated in
their species databases.

F. Wildlife ~~Management~~ Mitigation Plans.

Wildlife ~~management~~ mitigation plans shall be prepared when a proposed use is likely to adversely affect a
Priority Habitat or sensitive wildlife ~~area or~~ site. Their primary purpose is to document the special characteristics of
a project site and the habitat requirements of affected wildlife species. This information provides a basis for the

project applicant to redesign the proposed use in a manner that protects Priority Habitats and sensitive wildlife ~~areas~~ and sites, maximizes ~~his/her/their~~ development options, ~~and~~ mitigates temporary impacts to the sensitive wildlife area or site and/or buffer zone, ~~and offsets unavoidable negative impacts to Priority Habitats and sensitive wildlife sites.~~ Wildlife ~~management/mitigation~~ plans shall meet the following guidelines:

1. Wildlife ~~management/mitigation~~ plans shall be prepared by a professional wildlife biologist hired by the project applicant.

2. All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life-habitat value of the wildlife ~~area or site~~.

3. Where applicable, ~~the~~ core habitat of the ~~rare sensitive~~ wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife ~~area or site~~.

4. A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

5. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect ~~sensitive-the rare~~ wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

a. New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. ~~Low intensity, nondestructive uses may be conditionally authorized in the core habitat.~~

b. Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation ~~and/or~~ enhancement will be completed before a particular species returns.

6. Rehabilitation ~~and/or~~ enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered ~~or degraded~~ in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife ~~area or site~~. Rehabilitation and enhancement actions shall be documented in the wildlife ~~management/mitigation~~ plan and shall include a map and text.

7. The applicant shall prepare and implement a three (3) year monitoring plan when the affected ~~wildlife area or Priority Habitat or sensitive wildlife~~ site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the ~~wildlife area-Priority Habitat or sensitive wildlife or~~ site and the success of rehabilitation and/or enhancement actions.

8. At the end of three (3) years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the ~~rehabilitation and enhancement~~ wildlife mitigation plan guidelines.

G. New Fences in Deer and Elk Winter Range.

1. New fences in deer and elk winter range ~~shall~~may be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens, Priority Habitat or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

2. New and replacement fences that are allowed in winter range shall comply with the guidelines in the Forest Service document Specifications for Structural Range Improvements (Sanderson, et al., 1990), as summarized below, and may be revised from time to time, unless the applicant demonstrates the need for an alternative design. To allow deer and other wildlife safe passage:

a. To make it easier for deer to jump over the fence, the top wire shall not be more than forty-two (42) inches high.

b. The distance between the top two (2) wires is critical for a dult deer because their hind legs often become entangled between these wires. A gap of at least ten (10) inches shall be maintained between the top two (2) wires to make it easier for deer to free themselves if they become entangled.

c. The bottom wire shall be at least sixteen (16) inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

d. Stays, or braces placed between strands of wire, shall be positioned between fence's posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two (2) wires.

3. Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

4. Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with Section 40.240.860(G)(2).

(Amended: Ord. 2006-05-04)

40.240.870 General Management Areas Rare Plant Review Criteria

A. Sensitive Rare Plants and Site Plans for Review of Uses Near Sensitive Rare Plants.

1. Proposed uses shall not adversely affect ~~rare sensitive~~ plants. "rare Sensitive plants" ~~means plant species that are:~~

a. Endemic to the Columbia River Gorge and vicinity. Table 40.240.870-1. lists the endemic plants as of the date of a adoption of the Management Plan revision, which the Gorge Commission developed in consultation with the Washington Natural Heritage Program; ~~or~~

b. Listed as endangered or threatened pursuant to federal or state endangered species acts; ~~or~~

c. ~~Designated global or state status rank 1, 2, or 3 by the Listed as endangered, threatened, or sensitive by the Oregon~~ Washington Natural Heritage Program. This includes designated native plant communities.

d. Updated lists of plant species and ecosystems included in (b) and (c) above can be found on the website for the Washington Natural Heritage Program. The Forest Service and the Gorge Commission also maintain updated lists.

2. In addition to the information required in site plans, site plans for uses within one thousand (1,000) feet of a ~~sensitive rare~~ plant site shall include a map prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

3. Proposed uses within one thousand (1,000) feet of a ~~rare sensitive~~ plant shall be evaluated for a dverse effects, including cumulative effects, and a dverse effects shall be prohibited.

(Amended: Ord. 2018-03-04)

Table 40.240.870-1. Columbia Gorge and Vicinity Endemic Plant Species

<u>Common Name</u>	<u>Scientific Name</u>
<u>Howell's bentgrass</u>	<u><i>Agrostis howellii</i></u>
<u>Hood River milk-vetch</u>	<u><i>Astragalus hoodianus</i></u>
<u>Smooth-leaf douglasia</u>	<u><i>Douglasia laevigata</i> var. <i>laevigata</i></u>
<u>Howell's daisy</u>	<u><i>Erigeron howellii</i></u>
<u>Columbia Gorge daisy</u>	<u><i>Erigeron oregonus</i></u>
<u>Klickitat biscuitroot</u>	<u><i>Lomatium klickitatense</i></u>
<u>Long-beard hawkweed</u>	<u><i>Hieracium longiberbe</i></u>
<u>Smooth desert parsley</u>	<u><i>Lomatium laevigatum</i></u>
<u>Suksdorf's desert parsley</u>	<u><i>Lomatium suksdorfii</i></u>
<u>Barrett's penstemon</u>	<u><i>Penstemon barrettiae</i></u>
<u>Obscure buttercup</u>	<u><i>Ranunculus reconditus</i></u>
<u>Oregon sullivantia</u>	<u><i>Sullivantia oregana</i></u>
<u>Columbia kittentails</u>	<u><i>Synthyris stellate</i></u>

B. Uses.

Uses allowed outright in rare plant areas are listed in Section 40.240.120.

C. Field Survey. A field survey to identify ~~sensitive-rare~~ plants shall be required for:

1. Land divisions that create four (4) or more parcels;
2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
3. Public transportation facilities that are outside improved rights-of-way;
4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and
5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project-related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually;
6. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. They shall be conducted when plants are expected to be flowering or most easily detectable. Field surveys shall identify the precise location of the ~~rare sensitive~~ plants and delineate a two hundred (200) foot buffer zone. The results of a field survey shall be shown on the site plan map and kept confidential by the responsible official as required by state law.

D. Uses not listed in Section 40.240.870(B) may be allowed within one thousand (1,000) feet of a ~~rare sensitive~~ plant, when approved pursuant to Section 40.240.870(E), and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900.

E. Uses that are proposed within one thousand (1,000) feet of a ~~sensitive-rare~~ plant shall be reviewed as follows:

1. Site plans shall be submitted to the Washington Natural Heritage Program by the responsible official. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a two hundred (200) foot buffer zone on the project applicant's site plan. If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

2. The rare plant protection process may conclude if the responsible official, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a ~~sensitive-rare~~ plant buffer zone.

3. New uses shall be prohibited within ~~sensitive-rare~~ plant ~~species~~ buffer zones, except those listed in Section 40.240.870(B).

4. If a proposed use must be allowed within a ~~sensitive-rare~~ plant buffer area in accordance with Section 40.240.150, the project applicant shall prepare a ~~protection and rehabilitation~~ mitigation plan pursuant to Section 40.240.870(F).

5. The responsible official shall submit a copy of all field surveys and ~~mitigation protection and rehabilitation~~ plans to the Washington Natural Heritage Program. The Natural Heritage Program staff will have twenty (20) days from the date that a field survey is ~~mailed-sent~~ to submit written comments to the responsible official.

6. The responsible official shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

7. Based on the comments from the Natural Heritage Program staff, the responsible official will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the responsible official shall justify how the opposing conclusion was reached.

F. ~~Protection and Rehabilitation Rare Plant Mitigation~~ Plans.

~~Protection and rehabilitation~~ Rare plant mitigation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a ~~sensitive-rare~~ plant buffer zone as the result of a variance. ~~Protection and rehabilitation plans shall meet the following guidelines:~~

1. ~~Rare plant mitigation Protection and rehabilitation~~ plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

2. Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

3. ~~Sensitive-Rare~~ plants that will be ~~destroyed or altered~~ shall be transplanted or replaced, to the maximum extent practicable. "Replacement" is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least seventy-five (75) percent of the replacement plants survive three (3) years after the date they are planted.

4. ~~Sensitive-Rare~~ plants and their surrounding habitat that will not be altered ~~or destroyed~~ shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

5. Habitat of a ~~sensitive-rare~~ plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

6. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

7. Rare plant mitigation ~~Protection and rehabilitation~~ plans shall include maps, photographs, and text. The text shall:

- a. Describe the biology of ~~sensitive~~rare plant species that will be affected by a proposed use.
- b. Explain the techniques that will be used to protect ~~sensitive~~rare plants and their surrounding habitat that will not be altered ~~or destroyed~~.
- c. Describe the ~~rehabilitation and enhancement~~ mitigation actions that will minimize and offset the impacts that will result from a proposed use.
- d. Include a three (3) year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the responsible official an annual report that documents milestones, successes, problems, and contingency actions.

G. Sensitive-Rare Plant Buffer Zones.

1. A two hundred (200) foot buffer zones shall be maintained around ~~sensitive~~rare plants. Buffer areas shall remain in an undisturbed, natural condition.

2. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, manmade features, or natural plant habitat boundaries negate the need for a two hundred (200) foot radius. Under no circumstances shall the buffer zone be less than twenty-five (25) feet.

3. Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

- a. Identifies the precise location of the ~~sensitive~~rare plants;
- b. Describes the biology of the ~~sensitive~~rare plants; and
- c. Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

~~d4. All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs. All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.~~

~~45.~~ The responsible official shall submit all requests to reduce ~~sensitive~~rare plant species buffer areas to the Washington Natural Heritage Program. The Natural Heritage Program staff will have twenty (20) days from the date that such a request is ~~mailed-sent~~ to submit written comments to the responsible official.

~~5.~~ The responsible official shall record and address any written comments submitted by the Washington Natural Heritage Program in the development review order.

~~6.~~ Based on the comments from the Washington Natural Heritage Program, the responsible official will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the responsible official shall justify how the opposing conclusion was reached.

(Amended: Ord. 2006-05-04)

40.240.880 Special Management Areas Water Resources / Wildlife and Plants ~~Natural Resource~~ Review Criteria

A. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that the natural resources are protected from adverse effects. Proposed uses that would adversely affect water resources (wetlands, streams, ponds, lakes, and riparian areas) shall be prohibited.

Proposed uses that would adversely affect rare wildlife or rare plant areas or sites shall be prohibited. Uses that adversely affect rare wildlife or rare plant sites and areas when they compromise the integrity of an area or site or occur during a time of the year when affected wildlife or plant species are sensitive to disturbance. Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and federal agencies shall be carefully considered.

(Amended: Ord. 2018-03-04)

B. Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas).

1. All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (B)(1)(b)(1) and (2) of this section. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

a. All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

b. Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. The following buffer zone widths shall be required:

(1) A minimum two hundred (200) foot buffer on each wetland, pond, lake, and each bank of a perennial or fish-bearing stream, some of which can be intermittent.

(2) A fifty (50) foot buffer zone along each bank of intermittent (including ephemeral), non-fish-bearing streams.

(3) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(a) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way;

(b) The wetland is not critical habitat; and

(c) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

c. The buffer width shall be increased for the following:

(1) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(2) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(3) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

d. Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

- (1) Integrity and function of the buffer zones are maintained;
- (2) Total buffer area on the development proposal is not decreased;
- (3) Width reduction shall not occur within another buffer; and
- (4) Buffer zone width is not reduced more than fifty percent (50%) at any particular location.

Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and floodplain characteristics should be considered.

e. Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant:

- (1) Identifies the precise location of the ~~sensitive-rare~~ wildlife ~~or~~ plant or water resource;
- (2) Describes the biology of the ~~sensitive-rare~~ wildlife ~~or~~ plant or hydrologic condition of the water resource; and
- (3) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife ~~or~~ plant and their surrounding habitat that is vital to their long-term survival or water resource and its long-term function.

f. The responsible official shall submit all requests to reconfigure ~~sensitive-rare~~ wildlife ~~or~~ plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the responsible official will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the responsible official shall justify how the opposing conclusion was reached.

(1) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(2) The applicant shall be responsible for identifying all water resources and their appropriate buffers.

(3) Wetlands boundaries shall be delineated using the following:

(a) The approximate location and extent of wetlands in the National Scenic Area as shown on the National Wetlands Inventory (U.S. Department of the Interior, ~~1987~~). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(b) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(c) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the ~~1987~~ *Corps of Engineers Wetland Delineation Manual* (online edition) and applicable Regional Supplements.

(d) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, ~~such as a soil scientist, botanist, or wetlands ecologist~~.

2. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

3. The responsible official may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the responsible official shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

4. Buffer zones shall be undisturbed unless the following criteria have been satisfied:

a. The proposed use must have no practicable alternative as determined by the practicable alternative test. Those portions of a proposed use that have a practicable alternative will not be located in water resources wetlands, streams, ponds, lakes, and riparian areas and/or their buffer zones.

b. Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(1) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question;

(2) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration or enhancement project; and

(3) The proposed project minimizes the impacts to the wetland.

c. Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a SMA mitigation plan.

5. Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas water resources and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse effects shall be prohibited.

(Amended: Ord. 2018-03-04)

C. Wildlife and Plants.

1. Protection of sensitive wildlife or plant areas and sites shall begin when proposed new developments or uses are within one thousand (1,000) feet of a sensitive rare wildlife or rare plant area or site and/or area. Sensitive Rare wildlife areas and endemic plants are those areas depicted in the wildlife data inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan including all sensitive wildlife sites and priority habitats listed in Table 40.240.880-1 and Part I, Chapter 3 of the Management Plan this chapter. The approximate locations of sensitive rare wildlife and or plant areas and sites are shown in the wildlife and rare plant inventory data.

2. The responsible official shall submit site plans (of uses that are proposed within one thousand (1,000) feet of a sensitive rare wildlife and/or rare plant area or site) for review to the Forest Service, the Washington Department of Fish and Wildlife for wildlife issues and the Washington Natural Heritage Program for plant issues.

3. The Forest Service wildlife biologists and or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

a. Identify/verify the precise location of the wildlife and/or plant area or site;

b. Determine if a field survey will be required;

c. Determine, based on the biology and habitat requirements of the affected wildlife or plant species, if the proposed use would compromise the integrity and function of or result in adverse effects (including cumulative effects) to the wildlife and/or plant area or site. This would include considering the time of

year when wildlife ~~and/or~~ plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season; and

d. Delineate the undisturbed two hundred (200) foot buffer on the site plan for ~~sensitive-rare~~ plants ~~and/or~~ the appropriate buffer for ~~sensitive-rare~~ wildlife areas or sites, including nesting, roosting, and perching sites.

(1) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

(a) Integrity and function of the buffer zones are maintained;

(b) Total buffer area on the development proposal is not decreased;

(c) Width reduction shall not occur within another buffer; and

(d) Buffer zone width is not reduced more than fifty percent (50%) at any particular location. Such features as intervening topography, vegetation, manmade features, natural plant or wildlife habitat boundaries, and floodplain characteristics could be considered.

(2) Requests to reduce buffer zones shall be considered if an appropriate professional botanist, plant ecologist, wildlife biologist, or hydrologist, hired by the project applicant:

(a) Identifies the precise location of the ~~sensitive-rare~~ wildlife ~~or~~ plant or water resource;

(b) Describes the biology of the ~~sensitive-rare~~ wildlife ~~or~~ plant or hydrologic condition of the water resource; and

(c) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife ~~or~~ plant and their surrounding habitat that is vital to their long-term survival ~~or to the~~ water resource and its long-term function.

(3) The responsible official shall submit all requests to reconfigure ~~sensitive-rare~~ wildlife ~~or~~ plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and, based on the comments from the state and federal agencies, the responsible official will make a final decision on whether the reduced buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the responsible official shall justify how the opposing conclusion was reached.

4. The responsible official, in consultation with the state and federal wildlife biologists and ~~or~~ botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse effects to the wildlife ~~and/or~~ plant area or site:

a. Published guidelines regarding the protection and management of the affected wildlife ~~or~~ plant species. Examples include: ~~the Washington Department of Fish and Wildlife technical papers that include management~~ guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

b. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

c. Historic, current, and proposed uses in the vicinity of the ~~sensitive-rare~~ wildlife ~~or~~ plant area or site.

d. Existing condition of the wildlife ~~or~~ plant area or site and the surrounding habitat ~~and the useful life~~ of the area or site.

e. In areas of winter range, habitat components, such as forage, and thermal cover important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

f. The site plan is consistent with published guidance documents such as the Washington's Aquatic Habitat Guidelines (2002 or most recent version). State guidelines when they become finalized.

g. The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledging of young) and those periods specified.

h. The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

i. Maintain, protect, and enhance the integrity and function of priority habitats (such as old growth forests, talus slopes, and oak woodlands) as listed in Table 40.240.880-1. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

5. The wildlife or plant protection process may terminate if the responsible official, in consultation with the Forest Service and Washington Department of Fish and Wildlife, or Heritage Program, determines:

a. The sensitive-rare wildlife area or site is not active; or

b. The proposed use is not within the buffer zones and would not compromise the integrity of the wildlife or plant area or site; ~~and/or~~

c. The proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications).

If the project applicant accepts these recommendations, the responsible official shall incorporate them into the final decision and the wildlife or plant protection process may conclude.

6. If the measures in this section fail to eliminate the adverse ~~a~~ effects, the proposed project shall be prohibited, unless the project applicant can meet the practicable alternative test in subsection (E) of this section by preparing a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

7. The responsible official shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The ~~Executive Director~~ responsible official shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision. Based on the comments from the state and federal wildlife agency/heritage program, the responsible official shall make a final decision on whether the proposed use would be consistent with the wildlife or plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the responsible official shall justify how the opposing conclusion was reached.

8. The responsible official shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive-rare wildlife or plant area or site.

9. Proposed uses and developments within one thousand (1,000) feet of sensitive wildlife areas and sites or within one thousand (1,000) feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

(Amended: Ord. 2018-03-04)

D. Soil Productivity.

1. Soil productivity shall be protected using the following guidelines:

a. A description or illustration showing the mitigation measures used to control soil erosion and stream sedimentation.

- b. New developments and land uses shall control all soil movement within the area shown on the site plan.
- c. The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed fifteen percent (15%) of the project area.
- d. Within one (1) year of project completion, eighty percent (80%) of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has eighty percent (80%) vegetative cover.

Table 40.240.880-1. Priority Habitats	
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability.
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.
<u>Winter Range</u>	<u>Provides important wintering habitat for deer and elk.</u>

Priority Habitats are defined by the Forest Service and state wildlife agencies through State Wildlife Action Plan efforts.

E. Practicable Alternative Test.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- The basic purpose of the use cannot be reasonably accomplished using one (1) or more other sites in the vicinity that would avoid or result in less adverse effects on ~~wetlands, ponds, lakes, riparian areas~~ water resources, or wildlife or plant areas ~~and/or~~ sites.
- The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on ~~wetlands, ponds, lakes, riparian areas~~ water resources, or wildlife or plant areas ~~and/or~~ sites.

3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or ~~R~~ecreation ~~i~~ntensity ~~e~~Class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

F. SMA Mitigation Plans.

1. A mitigation plan shall be prepared when:

a. The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, or wildlife or plant areas ~~and~~ or sites); and

b. There is no practicable alternative (subsection (E) of this section).

2. In all cases, ~~M~~itigation ~~P~~lans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist or ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

3. The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects ~~sensitive~~ the identified water resources, and ~~rare~~ wildlife or plant areas and sites, that maximizes ~~his/her/their~~ development options, and that mitigates, through restoration, enhancement, creation and replacement measures, impacts to the water resources and ~~or~~ wildlife and plant area or site ~~and~~ or buffer zones.

4. The applicant shall submit the mitigation plan to the responsible official. The responsible official shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the responsible official shall justify how it reached an opposing conclusion.

5. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

6. Mitigation plans shall include maps, photographs, and text. The text shall:

a. Describe the biology and ~~or~~ function of the ~~sensitive-protected~~ resources (e.g., wildlife or plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the ~~sensitive-protected~~ resource ~~to be altered or destroyed~~ and the condition of the resource that will result after restoration ~~will~~ shall be required. Reference published protection and management guidelines.

b. Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the ~~sensitive-protected~~ resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

c. Explain the techniques that will be used to protect the ~~sensitive-protected~~ resources and their surrounding habitat that will not be altered ~~or destroyed~~ (for examples, delineation of core habitat of the ~~sensitive-rare~~ wildlife or plant species and key components that are essential to maintain the long-term use and integrity of the wildlife or plant area or site).

d. Show how restoration, enhancement, and ~~replacement (creation)~~ measures will be applied to ensure that the proposed use results in minimum feasible impacts to ~~sensitive-protected~~ resources, their buffer zones, and associated habitats.

e. Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are not alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the ~~responsible official local government~~, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

7. At a minimum, a project applicant shall provide to the responsible official a progress report every three (3) years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

8. A final monitoring report shall be submitted to the responsible official for review upon completion of the restoration, enhancement, created or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any ~~sensitive-rare~~ wildlife or plant species and shall demonstrate the success of restoration ~~and~~ or enhancement actions. The responsible official shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the responsible official in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

9. Mitigation measures to offset impacts to resources and ~~or~~ buffers shall result in no net loss of water quality, natural drainage, fish/wildlife or plant habitat, and water resources by addressing the following:

a. Restoration and enhancement efforts shall be completed no later than one (1) year after the ~~sensitive-protected~~ resource or buffer zone has been altered ~~or destroyed~~, or as soon thereafter as is practicable.

b. All natural vegetation within the buffer zones shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five (5) years, at least seventy-five percent (75%) of the replacement vegetation must shall survive. All plantings must shall be with native plant species that replicate the original vegetation community.

c. Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

d. If this standard is not feasible or practical because of technical constraints, a ~~sensitive-protected~~ resource of equal or greater benefit may be substituted; provided, that no net loss of ~~sensitive-protected~~ resource functions occurs; and further provided, that the responsible official, in consultation with the appropriate state and federal agency, determines that such substitution is justified.

e. ~~Sensitive-Rare~~ plants that will be ~~destroyed, altered~~ shall be transplanted or replaced, to the maximum extent practicable. "Replacement" is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. ~~Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least seventy-five percent (75%) percent of the replacement plants survive three (3) years after the date they are planted. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least seventy-five percent (75%) percent of the replacement plants survive 3 years after the date they are planted.~~

f. Nonstructural controls and natural processes shall be used to the greatest extent practicable:

(1) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(2) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the ~~Practical Alternative Test.~~

(3) Fish passage shall be protected from obstruction.

(4) Restoration of fish passage should occur wherever possible.

(5) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(6) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(7) Those portions of a proposed use that are not water-dependent or that have a practicable alternative ~~will~~shall be located outside of stream, pond, and lake buffer zones.

(8) Stream bank and shoreline stability shall be maintained or restored with natural vegetation.

(9) The size of restored, enhanced, and ~~replacement (creation)~~ wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered ~~or destroyed~~:

Restoration: 2:1

Creation: 3:1

Enhancement: 4:1

g. Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for five (5) consecutive years. Self-functioning is defined by the expected function of the wetland as written in the ~~Mitigation Plan~~. The monitoring report shall be submitted to the ~~responsible official - local government~~ to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the ~~responsible official - local government~~ to help evaluate such reports and any subsequent activities associated with compliance.

h. Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a nonprofit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given in subsection (F)(9)(f)(9) of this section. These transactions shall be explained in detail in the mitigation plan and shall be fully monitored and documented in the monitoring report.

(Amended: Ord. 2006-05-04)

40.240.890 General Management Areas Recreation Resource Review Criteria

~~Each Recreation Intensity Class includes a description of the desired social, physical and managerial setting for recreation development within each Recreation Intensity Class. Each Recreation Intensity Class also includes a list of allowable uses. The following uses may be allowed within designated recreation intensity classifications, as delineated on the Columbia River Gorge National Scenic Area Management Plan Recreation Intensity Classifications map, subject to compliance with Sections 40.240.890(D) and (E).~~

A. Recreation Intensity Class 1 – Very Low Intensity.

1. Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low throughout the designation. Perceived crowdedness is low to non-existent a way from roads and recreation sites. Visitor encounters and perceived crowdedness is low to moderate at or near (within 1 mile) roads and recreation sites.

2. Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities are allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

3. Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

4. The following uses may be permitted.

a1. Parking areas for a maximum, not to exceed a site-wide capacity of ten (10) cars for vehicles, when associated with any allowed uses in Recreation Intensity Class 1; Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

b2. Trails for hiking, equestrian and mountain biking use;

c3. Pathways for pedestrian and bicycling use;

d4. Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use);

e5. Scenic viewpoints and overlooks;

f6. Wildlife/botanical viewing and nature study areas;

g7. River access areas;

8. Simple interpretive signs and/or displays, not to exceed a total of fifty (50) square feet;

9. Entry name signs not to exceed ten (10) square feet per sign;

h10. Boat docks, piers or wharves;

i11. Picnic areas; and

j12. Restrooms/comfort facilities.

B. Recreation Intensity Class 2 – Low Intensity.

1. Social Setting: RIC 2 is characterized by opportunities to experience relaxation, physical fitness and outdoor learning and where there is a moderate probability to experience solitude. Typically encounters with other visitors throughout the designation is Low to Moderate. Visitor encounters are low to moderate on trails and away from developed recreation sites and roads, and moderate to high near (within 1 mile) recreation sites and roads.

2. Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural environment. Away from developed recreation sites there is minimal or subtle control of users.

3. Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills.

4. The following uses may be permitted.

~~a1.~~ All uses permitted in Recreation Intensity Class 1;

~~b2.~~ Parking areas ~~for a maximum, not to exceed a site-wide capacity~~ of twenty-five (25) ~~vehicles, when associated with cars, including spaces for campground units, to serve~~ any allowed uses in Recreation Intensity Class 2; Parking spaces for campground units shall be included in this number. Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings

~~3.~~ ~~Simple interpretive signs and displays, not to exceed a total of one hundred (100) square feet;~~

~~4.~~ ~~Entry name signs not to exceed twenty (20) square feet per sign;~~

~~c5.~~ Boat ramps, not to exceed two (2) lanes; and

~~d6.~~ Campgrounds for twenty (20) units or less, tent sites only.

C. Recreation Intensity Class 3 – Moderate Intensity.

1. Social Setting: A high degree of interaction with other visitors with opportunities to experience relaxation and activities that provide little challenge or risk in a natural appearing environment characterizes this designation. Visitor encounters are moderate to high on trails away from developed recreation sites and roads.

2. Physical and Managerial Setting: Changes to the natural landscape may be evident but in harmony with characteristics of the landscape setting. Highly developed recreation facilities and trails are constructed for visitor convenience. On-site regulation and controls are noticeable but harmonize with the natural characteristics of the landscape.

3. Trails typically accommodate moderate to high use and are well developed (native, gravel or paved surfaces, trail facilities such as bridges are provided for convenience). Trails are easily traveled by a wide range of users who have intermediate skill level and minimal orienteering skills.

4. The following uses may be permitted.

~~a1.~~ All uses permitted in Recreation Intensity Classes 1 and 2;

~~b2.~~ Parking areas ~~for a maximum, not to exceed a site-wide capacity~~ of seventy-five (75) ~~vehicles, when associated with cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units shall be included in this number.;~~

c. Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites, and improvements to existing Class 3 day-use recreation sites where the improvement would increase the use of the site, except for sites predominantly devoted to boat access. The number and size of the mass transportation facilities shall reflect the physical capacity of the site.

~~3.~~ ~~Interpretive signs, displays and/or facilities;~~

~~4.~~ ~~Visitor information and environmental education signs, displays or facilities;~~

~~5.~~ ~~Entry name signs not to exceed thirty-two (32) square feet per sign;~~

~~d6.~~ Boat ramps, not to exceed three (3) lanes;

~~e7.~~ Concessions stands, ~~pursuant to applicable policies in Chapter 4, Part I of the Management Plan consistent with the following:~~

(a) Private concessions and other commercial uses at public recreation sites shall be allowed pursuant to adopted policies of the public agency owning or managing the site. If a different agency manages the site, that agency's policies shall apply, unless superseded by provisions of the owning agency's policies.

(b) For commercial recreation sites and public recreation sites not owned or managed by a public park agency with adopted concession policies, the following policies shall apply:

(1) Retail sales at campgrounds shall be limited to camping supplies for overnight guests in dedicated space within the registration or central office building.

(2) Private concessions in permanent structures shall be limited to one structure per park site. Sales shall be limited to those items necessary for enjoyment and use of recreation opportunities at the site, including food and beverages and recreation equipment rental.

(3) Mobile vendors may be permitted, subject to responsible official approvals. This review shall address solid waste disposal, visual impacts of signs, traffic circulation, and safety. Such uses shall be limited to the term of the recreation season, and sales shall be limited to food and beverages and recreation equipment rental; and

~~f8.~~ Campgrounds for fifty (50) individual units or less for tents and ~~or~~ recreational vehicles, with a total density of no more than ten (10) units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one (1) group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

D. Approval Criteria for Recreation Uses.

All proposed recreation projects outside of Public Recreation zones shall comply with Sections 40.240.800 through 40.240.900, and shall satisfy the following:

1. Cumulative effects of proposed recreation projects on landscape settings shall be based on ~~the~~ 40.240.800(C) "compatible recreation use" guideline for the landscape setting in which the use is located.

2. For proposed recreation projects in or adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland:

a. The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and ~~or~~ site conditions.

b. A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture or Gorge Small Woodland.

3. For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds: The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of twelve (12) feet in width and a maximum grade of twelve percent (12%). Access drives shall be maintained to a level that is passable to fire-fighting equipment.

4. Trail or trailhead projects shall comply with ~~the following: applicable trails policies in the Management Plan.~~

~~a. Where applicable, new trails should incorporate existing segments of older or historic trails, abandoned roads and railroad rights-of-way, and other previously developed areas suitable for recreation use to the maximum extent practicable.~~

~~b. Trails that are intended for multiple user groups shall be required to post signs at trailheads alerting users that multiple user groups may be present on the trail. Trails shall be designed such that user conflicts and safety issues are minimized.~~

~~c. Applications for new trails or trailheads shall include measures to minimize the potential spread of noxious weeds.~~

~~d. Applications for new trails or trailheads shall consider the potential of fire risk during critical fire hazard periods in developing the physical and managerial setting of the site.~~

5. For proposed projects providing ~~boating or windsurfing recreation~~ access to the Columbia River or its tributaries: ~~Compliance applicants shall demonstrate that the new facility is consistent with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan and does not affect or modify tribal treaty rights.~~

6. For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: Compliance with ~~the guidelines for protection of tribal treaty rights~~ in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.

7. For proposed projects which include interpretation of natural or cultural resources: A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

~~8. Applications for public recreation development in Recreation Intensity Class 3 shall demonstrate how the proposed recreation development will be equitable and accessible (regardless of income level, ethnicity, gender, ability, or age). Applications for public recreation development in RIC 1 and 2 shall meet this standard to the maximum extent practicable.~~

~~9. Applications shall demonstrate compliance with the social, physical and managerial setting characteristics in the applicable Recreation Intensity Class description.~~

E. Facility Design Guidelines for All Recreation Projects.

1. Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one third (1/3) of the total land area dedicated to recreation uses ~~and/or~~ facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses ~~and/or~~ facilities.

2. The facility design guidelines contained herein are intended to apply to individual recreation facilities. ~~For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another.~~ To be considered a separate facility from other developments or improvements within the same recreation intensity class, recreation developments or improvements must be separated by at least one-quarter (1/4) mile of undeveloped land (excluding trails, pathways, or access roads).

~~3. Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from key viewing areas.~~

34. Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable. ~~These trees may be, and~~ utilized to ~~screen parking areas and campsites from key viewing areas and~~ satisfy requirements for perimeter and interior landscaped buffers.

45. Parking areas providing over fifty (50) spaces shall be divided into discrete “islands” separated by unpaved, landscaped buffer areas.

56. Lineal frontage of parking areas and campsite loops to scenic travel corridors shall be minimized to the greatest extent practicable.

67. Ingress/egress points shall be consolidated to the maximum extent practicable, providing for a adequate emergency access pursuant to applicable fire and safety codes.

78. Signage shall be limited to ~~that those~~ necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

~~9. Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off site or being highly visible from key viewing areas.~~

810. Innovative designs and materials which reduce visual impacts (such as “turf blocks” instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the responsible official may allow either reductions in required minimum interior or perimeter landscape buffers up to fifty percent (50%) of what would otherwise be required, or additional parking spaces not to exceed ten percent (10%) of what would otherwise be permitted.

911. A majority of trees, shrubs and other plants in landscaped areas shall be species native ~~or naturalized~~ to the landscape setting in which they occur. ~~(The landscape setting descriptions and design guidelines are found in- Part I, Chapter 1 specify lists of appropriate species). Project applicants that are required to use new landscaping are encouraged to place trees, shrubs and other plants in a manner approximating their natural condition.~~

~~12. All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the structures blending with and not noticeably contrasting with their setting.~~

~~13. Landscape buffers around the perimeter of parking areas accommodating more than ten (10) vehicles shall be provided. Minimum required widths are five (5) feet for twenty (20) vehicles or less, twenty (20) feet for fifty (50) vehicles or less, thirty (30) feet for one hundred (100) vehicles or less, and forty (40) feet for two hundred fifty (250) vehicles or less.~~

104. ~~For any parking area with over 50 spaces, interior landscaped buffers breaking up continuous areas of parking into discrete “islands” shall be provided for any parking areas over fifty (50) spaces in size.~~ The minimum width of interior landscaped buffers between each parking lot of fifty (50) spaces or less shall be twenty (20) feet.

~~15. Within required perimeter and interior landscaped buffer areas, a minimum of one (1) tree of at least six (6) feet in height shall be planted for every ten (10) lineal feet as averaged for the entire perimeter width. A minimum of twenty-five percent (25%) of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.~~

16. ~~Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as fifty percent (50%), at the discretion of the responsible official, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any key viewing area.~~

1 117. Grading or soil compaction within the drip line of existing mature trees shall be avoided to the
2 maximum extent practicable, to reduce risk of root damage and associated tree mortality.

3 ~~18. All parking areas and campsites shall be set back from scenic travel corridors, and the Columbia River~~
4 ~~and its major tributaries at least one hundred (100) feet. Required perimeter landscaped buffers may be~~
5 ~~included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water~~
6 ~~mark. Setbacks from scenic travel corridors shall be measured from the edge of road pavements.~~

7 129. Project applicants shall utilize measures and equipment necessary for the proper maintenance and
8 survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible
9 for such maintenance and survival.

10 1320. All parking areas shall be set back from property boundaries by at least fifty (50) feet. All campsites
11 and associated facilities shall be set back from property boundaries by at least one hundred (100) feet.

12 (Amended: Ord. 2006-05-04)

13 40.240.900 Special Management Area Recreation Resource Review Criteria

14 A. The following shall apply to all new recreation developments and land uses in the Special Management Area:

- 15 1. New developments and land uses shall not displace existing recreational use;
- 16 2. Only natural resource-based recreation shall be allowed;
- 17 3. Recreation resources shall be protected from adverse effects by evaluating new developments and land
18 uses as proposed in the site plan. An analysis of both on- and off-site cumulative effects shall be required;
- 19 4. New pedestrian or equestrian trails shall not have motorized uses, except for emergency services;
- 20 5. Mitigation measures shall be provided to preclude adverse effects on the recreation resource;
- 21 6. The Facility Design Guidelines in 40.240.880.E ~~contained in this section~~ are intended to apply to
22 individual recreation facilities. ~~For the purposes of these guidelines, a recreation facility is considered a cluster~~
23 ~~or grouping of recreational developments or improvements located in relatively close proximity to one another.~~
24 ~~Recreation developments or improvements to be considered within the same Recreation Intensity Class are~~
25 ~~considered as a separate facilities from other developments or improvements within the same recreation~~
26 ~~intensity class must be if they are~~ separated by at least one-quarter (1/4) mile of undeveloped land (excluding
27 trails, pathways, or access roads); and
- 28 7. New development and reconstruction of scenic routes ~~(see Part III, Chapter I of the Management Plan)~~
29 shall include provisions for bicycle lanes.

30 B. SMA Recreation Intensity Class Guidelines.

31 Each Recreation Intensity Class includes a description of the desired social, physical and managerial setting for
32 recreation development within each Recreation Intensity Class. Each Recreation Intensity Class also includes a
33 list of allowable uses, subject to compliance with 40.240.880.E.

34 1. Recreation Intensity Class 1 – Very Low Intensity. ~~Emphasis is to provide opportunities for semi-~~
35 ~~primitive recreation opportunities;~~

36 a. Social Setting: Visitors in this designation have a high chance of finding solitude and opportunities
37 to experience activities that rely on self-reliance, challenge and risk. Encounters with other visitors is low
38 throughout the designation. Perceived crowdedness is low to non-existent a way from roads recreation
39 sites. Visitor encounters and perceived crowdedness is low to moderate a or near (within 1 mile) roads
40 and recreation sites.

b. Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) are noticeable but harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

c. Trail development is simple and typically accommodate low use levels. Users are highly skilled with a high degree of orienteering skills.

~~a. Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.~~

~~db. The maximum site design capacity shall not exceed thirty-five (35) people at one (1) time on the site. The maximum design capacity for parking areas shall be ten (10) vehicles.~~

~~ee.~~ The following uses may be permitted:

- (1) Trails and trailheads;
- (2) Parking areas;
- (3) Dispersed campsites accessible only by a trail;
- (4) Viewpoints and overlooks;
- (5) Picnic areas;
- (6) Signs;
- (7) Interpretive exhibits and displays;
- (8) Restrooms.

(9) Accommodations for mass transportation facilities should be considered where compatible with the social and physical settings.

2. Recreation Intensity Class 2 – Low Intensity.

~~a. Social Setting: RIC 2 Emphasis is to provide characterized by semi-primitive recreation opportunities, to experience relaxation.~~

~~b. Permitted uses are those that provide settings where people can participate in activities such as physical fitness, and outdoor learning, relaxation, and escape and where there is a moderate probability to experience solitude. Visitor encounters are low to moderate on trails and away from noise and crowds developed recreation sites and roads. Usually and moderate to high near (within 1 mile) recreation sites and roads.~~

b. Physical and Managerial Setting: Predominately natural/natural appearing landscapes with rustic improvements characterize this designation. Nodes of highly developed recreation facilities may be allowed. Developed recreation site regulations and controls (signing, regulations or other regimentation) harmonize with the natural characteristics of the landscape setting. Away from developed recreation sites there is minimal or subtle control of users.

Trails are moderately developed (native surface or gravel, trail bridges and other facilities are provided for user convenience). Trail use is typically low to moderate. Trails are suitable for a wide range of users and are challenging and involve intermediate to advance skills

1 c. ~~The maximum site design capacity shall not exceed seventy (70) people at one (1) time on the site.~~
2 The maximum design capacity shall be twenty-five (25) vehicles.

3 d. All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The
4 following uses may also be permitted:

5 (1) Campground ~~for twenty (20) units or less, tent sites only, with vehicle access;~~

6 (2) Boat anchorages designed for no more than ten (10) boats at one (1) time; and

7 (3) Swimming areas.

8 (4) Accommodations for mass transportation facilities should be considered where compatible with
9 the social and physical settings.

10 (Amended: Ord. 2006-05-04)